

ORDINANCE No. 05-07

AN ORDINANCE AMENDING REGULATIONS IN CHAPTERS 1, 2, 6, 10, 26, AND 30 OF THE TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE; PROVIDING AUTHORITY; ADOPTING AMENDMENTS TO CHAPTER 1 OF THE LAND DEVELOPMENT CODE WHICH IS TITLED “GENERAL PROVISIONS”; ADOPTING AMENDMENTS TO CHAPTER 2 OF THE LAND DEVELOPMENT CODE WHICH IS TITLED “ADMINISTRATION”; ADOPTING AMENDMENTS TO CHAPTER 6 OF THE LAND DEVELOPMENT CODE WHICH IS TITLED “MAINTENANCE CODES, BUILDING CODES, AND COASTAL REGULATIONS”; ADOPTING AMENDMENTS TO CHAPTER 10 OF THE LAND DEVELOPMENT CODE WHICH IS TITLED “DEVELOPMENT ORDERS AND ENGINEERING STANDARDS”; ADOPTING AMENDMENTS TO CHAPTER 26 OF THE LAND DEVELOPMENT CODE WHICH IS TITLED “MARINE FACILITIES”; ADOPTING AMENDMENTS TO CHAPTER 30 OF THE LAND DEVELOPMENT CODE WHICH IS TITLED “SIGNS”; PROVIDING SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

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

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

SECTION 2. ADOPTION OF AMENDMENTS TO CHAPTER 1 OF THE LAND DEVELOPMENT CODE. Chapter 1 of the Town of Fort Myers Beach land development code is titled “GENERAL PROVISIONS.” Chapter 1 is hereby amended as shown in Exhibit A. Entirely new language is indicated with underlining. Language being repealed from the existing code is indicated with ~~strike-throughs~~. Existing language being retained is either omitted entirely or is shown without underlining or strike-throughs. This ordinance amends the following sections of Chapter 1:

Sec. 1-5. General penalty; continuing violations.

Sec. 1-15. Variances and appeals.

SECTION 3. ADOPTION OF AMENDMENTS TO CHAPTER 2 OF THE LAND DEVELOPMENT CODE. Chapter 2 of the Town of Fort Myers Beach land development code is titled “ADMINISTRATION.” Chapter 2 is hereby amended as shown in Exhibit B. Entirely new language is indicated with underlining. Language being repealed from the existing code is indicated with ~~strike-throughs~~. Existing language being retained is either omitted entirely or is shown without underlining or strike-throughs. This ordinance amends the following sections of Chapter 2:

Article I. In General

Sec. 2-1. Requests for interpretation of a code provision.

Article II. Concurrency Management System

Sec. 2-52. Appeals.

Article IV. Impact Fees

Sec. 2-306. Computation of amount.

Sec. 2-310. Use of funds.

Article V. Code Enforcement

Sec. 2-427. Penalties and liens.

SECTION 4. ADOPTION OF AMENDMENTS TO CHAPTER 6 OF THE LAND

DEVELOPMENT CODE. Chapter 6 of the Town of Fort Myers Beach land development code is titled “MAINTENANCE CODES, BUILDING CODES, AND COASTAL REGULATIONS.”

Chapter 6 is hereby amended as shown in Exhibit C. Entirely new language is indicated with underlining. Language being repealed from the existing code is indicated with ~~strike-throughs~~. Existing language being retained is either omitted entirely or is shown without underlining or ~~strike-throughs~~. This ordinance amends the following sections of Chapter 6:

Article I. Property Maintenance Codes

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

Sec. 6-11. Refuse containers.

Sec. 6-12. Disposal of swimming pool water.

Sec. 6-13. Stormwater drainage on the beach.

Sec. 6-14. Neighborhood flooding.

Article II. Building Codes

Division 1. Generally

Sec. 6-44. Enforcing officers.

Division 3. Building Code

Sec. 6-111. Adoption; amendments.

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

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

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

Division 4. Existing Buildings Code

Sec. 6-122. Adoption; amendments.

~~Division 5. Plumbing Code~~

~~Division 6. Mechanical Code~~

~~Division 7. Gas Code~~

~~Division 8. Electrical Code~~

~~Division 9. Fire Codes~~

~~Division 5, 10. Contractor Licensing~~

Article III. Coastal Construction Code

Sec. 6-331. Origin.

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

Sec. 6-333. Definitions.

~~Sec. 6-334. Conflicting provisions.~~

~~Sec. 6-3348. Variances.~~

Sec. 6-362. ~~Reserved. Structural requirements for major structures.~~

Sec. 6-364. ~~Structural~~ Special requirements near beaches. ~~for nonhabitable major structures.~~

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

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

~~Sec. 6-368. References.~~

Article IV. Floodplain Regulations

Sec. 6-405. Definitions.

Sec. 6-472. Specific standards.

SECTION 5. ADOPTION OF AMENDMENTS TO CHAPTER 10 OF THE LAND DEVELOPMENT CODE. Chapter 10 of the Town of Fort Myers Beach land development code is titled “DEVELOPMENT ORDERS AND ENGINEERING STANDARDS.” Chapter 10 is hereby amended as shown in Exhibit D. Entirely new language is indicated with underlining. Language being repealed from the existing code is indicated with ~~strike-throughs~~. Existing language being retained is either omitted entirely or is shown without underlining or strike-throughs. This ordinance amends the following sections of Chapter 10:

Article I. In General

- Sec. 10-1. Definitions and rules of construction.
- Sec. 10-7. General requirements.

Article II. Development Orders and Plats

- Sec. 10-154. Additional required submittals.
- Sec. 10-174. Types of development entitled to limited review.
- Sec. 10-213. Technical requirements.

Article III. Engineering and Environmental Design Standards

- Sec. 10-296. Street design and construction standards.
- Sec. 10-329. Excavations.
- Sec. 10-385. Design standards.
- Sec. 10-415. Open space.
- Sec. 10-416. Landscaping standards.
- Sec. 10-421. Plant installation and maintenance standards.

SECTION 6. ADOPTION OF AMENDMENTS TO CHAPTER 26 OF THE LAND DEVELOPMENT CODE. Chapter 26 of the Town of Fort Myers Beach land development code is titled “MARINE FACILITIES.” Chapter 26 is hereby amended as shown in Exhibit E. Entirely new language is indicated with underlining. Language being repealed from the existing code is indicated with ~~strike-throughs~~. Existing language being retained is either omitted entirely or is shown without underlining or strike-throughs. This ordinance amends the following sections of Chapter 26:

Article II. Seawalls, Docks, and Other Shoreline Structures

- Sec. 26-41. Definitions.
- Sec. 26-71. Docks and boat ramps.
- Sec. 26-72. ~~Dock boxes~~; Boat lifts and davits.

SECTION 7. ADOPTION OF AMENDMENTS TO CHAPTER 30 OF THE LAND DEVELOPMENT CODE. Chapter 30 of the Town of Fort Myers Beach land development code is titled “SIGNS.” Chapter 30 is hereby amended as shown in Exhibit F. Entirely new language is indicated with underlining. Language being repealed from the existing code is indicated with ~~strike-throughs~~. Existing language being retained is either omitted entirely or is shown without underlining or strike-throughs. This ordinance amends the following sections of Chapter 30:

- Sec. 30-1. Purpose and intent of chapter.
- Sec. 30-2. Definitions and rules of construction.
- Sec. 30-3. Reserved.
- Sec. 30-~~4~~, ~~3~~; 3. Applicability of chapter.
- Sec. 30-~~5~~, ~~4~~; 4. Prohibited signs.
- Sec. 30-~~6~~, ~~5~~; 5. ~~Permitted~~ Allowable signs.
- Sec. 30-~~7~~, ~~6~~; 6. Parking of advertising vehicles.
- Sec. 30-51. Violation of chapter; penalty.

- Sec. 30-53. Powers and duties of town manager. ~~building official.~~
- Sec. 30-54. Variances.
- Sec. 30-55. Permits; inspections.
- Sec. 30-56. Non-conforming signs.
- Sec. 30-91. Measurement of sign area.
- Sec. 30-92. Measurement of sign height.
- Sec. 30-93. Location.
- Sec. 30-94. Construction standards; landscaping.
- Sec. 30-96. Maintenance.
- Sec. 30-151. Temporary signs.
- Sec. 30-152. Permanent identification signs in residential areas.
- Sec. 30-153. Permanent identification signs in commercial areas.

SECTION 8. SEVERABILITY. If any one of the provisions of this ordinance should be held contrary to any express provision of law, or contrary to the policy of express law although not expressly prohibited, or against public policy, or for any reason whatsoever be held invalid, then such provision shall be null and void and shall be deemed separate from the remaining provisions of this ordinance, and in no way shall affect the validity of all other provisions of this ordinance.

SECTION 9. EFFECTIVE DATE. This ordinance shall take effect immediately upon its adoption.

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

Bill Thomas	absent
Garr Reynolds	aye
Howard Rynearson	aye
W. H. "Bill" Van Duzer	nay
Don Massucco	aye

DULY PASSED AND ENACTED this 18th day of April, 2005.

ATTEST:

TOWN OF FORT MYERS BEACH

By: _____
Marsha Segal-George, Town Clerk

By: _____
W. H. "Bill" Van Duzer, Mayor

Approved as to form by:

Anne Dalton, Interim Town Attorney

EXHIBIT A

FORT MYERS BEACH LAND DEVELOPMENT CODE

CHAPTER 1 — GENERAL PROVISIONS

Sec. 1-5. General penalty; continuing violations.

(a) *[this subsection unchanged]*

(b) *[this subsection unchanged]*

(c) *[this subsection unchanged]*

(d) In addition to the criminal penalties and enforcement procedures provided in this code, the violation of any provision of this code may be:

- (1) restricted by injunction, including a mandatory injunction;
- (2) enforced by action of the code enforcement ~~special master, hearing examiner~~; in accordance with §§ 2-421–2-429;
- (3) enforced by citation, in accordance with §§ 2-430; and
- (4) otherwise abated in any manner provided by law, including other equitable or civil relief.

Any such suit or action may be instituted and maintained by the town council, by any citizen of the town, or by any person affected by the violation of this code.

(e) *[remainder of section unchanged]*

Sec. 1-15. Variances and appeals.

Requests for variances and appeals from the terms of this code shall be administered and decided in conformance with the requirements for variances and appeals which are set forth in ch. 34, except where a provision in this code explicitly disallows variances or appeals or provides different procedures or standards for variances or appeals.

EXHIBIT B

FORT MYERS BEACH LAND DEVELOPMENT CODE

CHAPTER 2 — ADMINISTRATION

ARTICLE I. IN GENERAL

Sec. 2-1. Requests for interpretation of a code provision.

Where a question arises as to the meaning or intent of a section or subsection of this code, a written request for an interpretation may be filed with the director as provided in §§ 34-90 or 34-265. ~~§ 34-208.~~

ARTICLE II. CONCURRENCY MANAGEMENT SYSTEM

Sec. 2-52. Appeals.

Except for challenges to development orders controlled by the provisions of F.S. § 163.3215, any decision made by the director in the course of administering this article may be appealed in accordance with those procedures set forth in ch. 34 for appeals of administrative decisions. ~~In cases of challenges to development orders controlled by F.S. § 163.3215, no suit may be brought and no verified complaint, as explained in F.S. § 163.3215(4), may be filed or accepted for filing until the development order giving rise to the complaint has become final by virtue of its having been issued by the director or by virtue of its having been ordered by the town council on an appeal reversing the director's denial of the development permit or where the town council has granted planned development zoning or an extension of a development order. Once a development order has been granted, the provisions of F.S. § 163.3215 will be the sole means of challenging the approval or denial of a development order, as that term is defined in F.S. § 163.3164(6), when the approval of~~

~~the development order is alleged to be inconsistent with the Fort Myers Beach Comprehensive Plan. An action brought pursuant to F.S. § 163.3215 will be limited exclusively to the issue of comprehensive plan consistency.~~

ARTICLE IV. IMPACT FEES

Sec. 2-306. Computation of amount.

(a) At the option of the feepayer, the amount of the impact fees may be determined by the schedule set forth in this section.

(b) References in this schedule to square feet refers to the gross square footage of each floor of a building measured to the exterior walls, and not to usable, interior, rentable, noncommon, or other forms of net square footage.

(c) If a building permit is requested for a building with mixed uses, as defined in § 2-304, then the fees shall be determined according to the schedule by apportioning the total space within the building according to the space devoted to each principal use. However, A shopping center will be considered a principal use; however, when located within a shopping center, a fast-food restaurant or convenience store with gasoline sales will be considered a principal use.

(d) If the type of development activity for which a building permit is applied is not specified on the schedule, the town manager shall use the fee applicable to the most nearly comparable type of land use on the schedule. For transportation impact fees, the town manager shall be guided in the selection of a comparable type by the Institute of Transportation Engineers' *Trip Generation* (latest edition), studies or reports by the federal, state, and

FORT MYERS BEACH IMPACT FEE SCHEDULE

LAND USE TYPE	Impact Fees (rounded to nearest dollar) ¹						
	Transportation	— — Parks — —		Community	Fire Protection		
Residential:							
Single-family residence	\$2,971	\$2,436	\$461	\$655	\$485	\$560	\$2,232
Multiple-family building (per dwelling unit)	\$2,059	\$1,687	\$341	\$485	\$306	\$269	\$691
Timeshare unit	\$2,237	\$1,834	\$341	\$485	\$306	\$269	\$0
Hotel/motel room	\$2,237	\$1,834	\$230	\$327	\$495	\$308	\$0
Assisted living facility (per dwelling unit) (see § 34-1415 for density equivalents)	\$1,017	\$1,687	\$0	\$0	\$306	\$269	\$0
Commercial (fee per 1,000 sq. ft. except as noted):							
Retail store or shopping center	\$5,063	\$3,992	\$0	\$0	\$621	\$549	\$0
Bank	\$8,038	\$6,063	\$0	\$0	\$621	\$549	\$0
Car wash, self-service (fee per stall)	\$1,683	\$7,749	\$0	\$0	\$621	\$549	\$0
Convenience store with gas pumps	\$11,250	\$8,715	\$0	\$0	\$621	\$549	\$0
Movie theater	\$7,427	\$5,600	\$0	\$0	\$621	\$549	\$0
Restaurant, fast food	\$12,763	\$9,886	\$0	\$0	\$621	\$549	\$0
Restaurant, standard	\$6,504	\$4,905	\$0	\$0	\$621	\$549	\$0
Office (fee per 1,000 square feet):							
General office	\$2,336	\$2,254	\$0	\$0	\$291	\$594	\$0
Medical office	\$7,716	\$6,334	\$0	\$0	\$291	\$594	\$0
Institutional (fee per 1,000 square feet):							
Church	\$1,467	\$1,402	\$0	\$0	\$621	\$549	\$0
Day care center	\$4,107	\$3,900	\$0	\$0	\$621	\$549	\$0
Elementary/secondary school (private)	\$643	\$611	\$0	\$0	\$621	\$549	\$0
Warehouse (fee per 1,000 square feet):	\$1,461	\$1,198	\$0	\$0	\$78	\$123	\$0

¹ In addition to the impact fees listed, an additional 3 percent administrative charge will be levied in accordance with § 2-310(e).

² School impact fees are collected in accordance with Lee County Ordinance No. 01-21, effective December 1, 2001.

county departments of transportation, and articles or reports appearing in the ITE Journal and other reliable sources. If the town manager determines that there is no comparable type of land use on the fee schedule set out in this subsection, then the town manager shall determine the fee by:

- (1) Using traffic generation statistics or other relevant data from the sources named in this subsection; and
- (2) Applying the formula set forth in subsection (g)(3) ~~(f)~~ of this section.

(e) When change of use, redevelopment, or modification of an existing use requires the issuance of a building permit, impact fees shall be based upon the net increase in the impact fee for the new use as compared to the previous use. However, should the change of use, redevelopment, or modification result in a net decrease, no refunds or credits for past impact fees paid shall be made or created.

(f) If an impact fee has been calculated and paid based on error or misrepresentation, it shall be recalculated and the difference refunded to the original feepayer or collected by the town, whichever is applicable. If impact fees are owed, no permits of any type may be issued for the building or structure in question, or for any other portion of a development of which the building or structure in question is a part, until all impact fees are paid. The building official may bring any action permitted by law or equity to collect unpaid fees.

(g) The person applying for the issuance of a building permit may, at his option, submit evidence to the town manager indicating that the fees set out in the impact fee schedule in this section are not applicable to the particular development. Based upon convincing and competent evidence, which shall be prepared and submitted in accordance with any applicable administrative code, the town manager may adjust the fee to that appropriate for the particular development.

- (1) The adjustment may include a credit for recreation facilities provided to the development by the feepayer if the recreation facilities serve the same purposes and functions as set forth for regional and/or community parks.
- (2) If a feepayer opts not to have the transportation impact fee determined according to the impact fee schedule in this section, then the feepayer shall prepare and submit to the town manager an independent fee calculation study for the land development activity for which a building permit is sought. The independent fee calculation study shall measure the impact of the development in question on the transportation system by following the prescribed methodologies and formats for such studies established by Lee County's administrative code. The feepayer must attend a preapplication meeting with town manager or designee to discuss the traffic engineering and economic documentation required to substantiate the request. The traffic engineering or economic documentation submitted must address all aspects of the impact fee formula that the county manager determines to be relevant in defining the project's impacts at the preapplication meeting and must show the basis upon which the independent fee calculation was made, including but not limited to the following:
 - a. Traffic engineering studies. All independent fee calculation studies must address all three of the following:
 1. Documentation of trip generation rates appropriate for the proposed land development activity;
 2. Documentation of trip length appropriate for the proposed land development activity; and
 3. Documentation of trip data appropriate for the proposed land development activity.
 - b. Revenue credit Cost documentation studies. The feepayer may also provide documentation substantiating that the costs to accommodate the impacts of the proposed development, or the revenue credits due to the development, differ from the average figures used in developing the fee schedule. This

documentation shall be prepared and presented by qualified professionals in their respective fields and shall follow best professional practices and methodologies.

- (3) The following formula shall be used by the town manager to determine the transportation impact fee per unit of development:

$$\text{Impact Fee} = \text{VMT} \times \text{NET COST/VMT}$$

Where: $\text{VMT} = \text{ADT} \times \% \text{NEW} \times \text{LENGTH} \div 2$

ADT = Trip ends during average weekday

%NEW = Percent of trips that are primary, as opposed to passby or diverted-link trips

LENGTH = Average length of a trip on the approved road system

$\div 2$ = Avoids double-counting trips for origin and destination

ADJUSTMENT = Local adjustment factor, representing the ratio between the VMT predicted by national travel characteristics and observed VMT on the approved road system

$$\text{NET COST/VMT} = \text{COST/VMT} - \text{CREDIT/VMT}$$

$$\text{COST/VMT} = \text{COST/LANE-MILE} \div \text{AVG LANE CAPACITY}$$

COST/LANE-MILE = Average cost to add a new lane to the approved roadway system

$$\text{AVG LANE CAPACITY} = \text{Average daily capacity of a lane at level of service "D"}$$

$$\text{CREDIT/VMT} = \text{\$/GAL} \div \text{MPG} \times 365 \times \text{NPV}$$

$\text{\$/GAL}$ = Capacity-expanding funding for roads per gallon of gasoline consumed

MPG = Miles per gallon, average for U.S. motor vehicle fleet

365 = Days per year (used to convert daily VMT to annual VMT)

NPV = Net present value factor (i.e., 12.46 for 20 years at 5% discount)

Sec. 2-310. Use of funds.

(a) Funds collected from impact fees shall be used only for the purpose of capital improvements for transportation, regional parks, community parks, fire protection, and schools, as defined in § 2-304. Impact fee collections, including any interest earned thereon, ~~less but excluding~~ administrative ~~charges~~ ~~costs retained or collected~~ pursuant to subsection (e) of this section, shall be used exclusively for capital improvements or expansion. These impact fee funds shall be segregated from other funds and shall be expended in the order in which they are collected. Funds may be used or pledged in the course of bonding or other lawful financing techniques, so long as the proceeds raised thereby are used for the purpose of capital improvements.

(b) Each fiscal year the town manager shall present to the town council a proposed capital improvement program for transportation, regional parks, and community parks, assigning funds, including any accrued interest, from the appropriate impact fee trust account to specific capital projects. Monies, including any accrued interest, not assigned in any fiscal period shall be retained in each impact fee trust account until the next fiscal period, except as provided by the refund provisions of this article.

(c) The town shall remit fire protection impact fees to the fire district at least once each quarter, less any amounts retained or collected pursuant to § 2-310(e), unless another method is specified in an appropriate interlocal agreement.

(d) The town shall remit school impact fees to Lee County at least monthly, less any amounts retained or collected pursuant to § 2-310(e), unless another method is specified in an appropriate interlocal agreement. Lee County will remit these school impacts to the School Board in accordance with Lee County Ordinance No. 01-21.

(e) The town is entitled to charge and collect three percent of the impact fees it collects in cash, or by a combination of cash and credits, as an administrative fee to offset the costs of administering this article. This administrative charge is in addition to the impact fee amounts required by this article. The applicant is responsible for payment of the additional administrative charge in conjunction with the payment of impact fees at the

time a building permit or development order is issued.

**ARTICLE V.
CODE ENFORCEMENT**

Sec. 2-427. Penalties and liens.

(b) *Penalties.*

- (1) A fine imposed under this section cannot exceed \$250.00 per day for the first violation or \$500.00 per day for a repeat violation. However, if the special master finds a violation is irreparable or irreversible in nature, a fine of up to \$5,000 per violation per day can be imposed. Further, the fine may include the cost of all repairs incurred by the town in accordance with subsection (a) hereof as well as the costs of prosecuting the case before the special master. For purposes of this article, prosecution costs of include, but are not limited to, recording costs, inspection costs, appearances by the code inspector at hearings, photography costs, and similar items.
- (2) The following factors will be considered by the special master in determining the fine to be imposed:
 - a. The gravity of the violation;
 - b. Any actions taken by the violator to correct the violation; and
 - c. Any previous violations committed by the violator.
- (3) The special master may mitigate the fine imposed under this section.

EXHIBIT C

FORT MYERS BEACH LAND DEVELOPMENT CODE

CHAPTER 6 — MAINTENANCE CODES, BUILDING CODES, AND COASTAL REGULATIONS

ARTICLE I. PROPERTY MAINTENANCE CODES

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 horizontal clearance of at least 3 feet and a vertical clearance of at least 8 7 feet above any sidewalk, bike path, or street; and
- (3) regularly mow or otherwise maintain unpaved areas in a neat and attractive condition.

(b) Landowners may not plant any tree or shrub closer than 3 feet to any sidewalk or bike path or to the right-of-way of Estero Boulevard. Trees or shrubs may be planted within a right-of-way only with permission of the town.

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

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

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. and 34-1744). If the nonmovable refuse container would be visible above the allowable height, it must be replaced with a shorter container.

Sec. 6-12. Disposal of swimming pool water.

Prior to disposal of swimming pool water, chlorine and bromine levels must be reduced by not adding chlorine or bromine for at least five days or until levels are below 0.1 mg per liter.

- (1) The preferred method for disposing of swimming pool water is to discharge the water into roadside swales to allow percolation into the ground without any runoff to canals, beaches, wetlands, other tidal waters, or onto adjoining properties. The discharge of dechlorinated water into roadside swales is permitted by § 10-604 of this code.
- (2) Another acceptable method is to discharge the water into the sanitary sewer system operated by Lee County Utilities.
- (3) Swimming pool water may not be discharged either directly or indirectly to the beach, canals, wetlands, or any other tidal waters.

Sec. 6-13. Stormwater drainage on the beach.

Tidal waters can become polluted and beaches can be eroded when pipes or culverts discharge directly onto the beach. Point sources of discharge from private property directly onto the beach are prohibited. This prohibition includes drainage collected from parking lots or other paved surfaces and stormwater from the roofs of buildings. Point sources of discharge from private property that were in lawful existence as of April 18, 2005, must be eliminated within 36 months.

Sec. 6-14. Neighborhood flooding.

(a) Chapter 10 of this code requires stormwater management systems for new development (see § 10-321). Development that is not subject to those requirements, such as single-family and two-family dwellings on existing lots, can also flood surrounding lots and streets, especially if the lot is raised higher than adjoining properties or if rainfall is concentrated by gutters and downspouts and discharged without an opportunity for infiltration.

(b) To minimize neighborhood flooding from normal daily rainfall, a fill permit must be obtained from the town when fill material is to be placed on lots that would raise the elevation more than an average of 6 inches above adjoining lots. The fill permit application must show how normal rainfall will have an opportunity to infiltrate into the ground within the lot using one or more of the following methods or equivalent solution:

- (1) Gutters and downspouts that collect rainwater must discharge into exfiltration trenches (french drains), or into a subsurface drainfield that meets the construction standards of F.A.C. 64E-6.014(5) (the percolation, depth, location, and setback standards for drainfields need not be met), or onto substantially flat and porous surfaces such as:
 - a. Sodded lawns.
 - b. Clean (washed) gravel or sand over a well-drained base.
 - c. Porous (pervious) paving.
- (2) Roof areas not served by gutters and downspouts must not drain to impervious surfaces, and must not drain to pervious surfaces that are sloped in excess of 5%. Surfaces not meeting these requirements must be designed to detain or deflect rainfall, for

instance through the use of earthen ridges, curbs, or retaining walls that prevent average rainfall from running onto adjoining lots or streets.

(c) Additions to, renovations of, and replacements for single-family and two-family dwellings that include the installation of gutters and downspouts must also obtain a fill permit showing discharge from the downspouts being directed to the same standards as for filled lots.

ARTICLE II. BUILDING CODES

DIVISION 1. GENERALLY

Sec. 6-44. Enforcing officers.

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

DIVISION 3. BUILDING CODE

Sec. 6-111. Adoption; amendments.

The Florida Building Code is 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, including all revisions and amendments approved in accordance with state law, with the exceptions set forth as follows:

Chapter 1, Administration.

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

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

103.2 Right of entry.

103.2.1 Whenever necessary to make an inspection to enforce any of the provisions of this code, or whenever the building official has reasonable cause to believe that there

exists in any building or upon any premises any condition or code violation which makes such building, structure, premises, electrical, gas, mechanical, or plumbing systems unsafe, dangerous, or hazardous, the building official may enter such building, structure, or premises at all reasonable times to inspect the same or to perform any duty imposed upon the building official by this code. If such building or premises are occupied, he must first present proper credentials and request entry. If such building, structure, or premises are unoccupied, he must first make a reasonable effort to locate the owner or other persons having charge or control of such and request entry. If entry is refused, the building official has recourse to every remedy provided by law to secure entry.

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

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

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

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

103.4.2 Violation of code provisions.

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

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

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

Section 104.1.1 is amended to read as follows:

~~104.1.1. When required: [deleted in its entirety]~~

Section 104.1.4 is amended to read as follows: 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 repairs defined as such by the building official. Ordinary minor repairs under this section may not involve the cutting of any structural beam or supporting member or include any alterations that would increase habitable floor area, change the use of any portion of the building, remove or change any required means of egress or exit access, or affect the structural integrity or fire rating of the building.

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

~~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.~~

104.1.6.1 A permit issued shall be construed to be a license to proceed with the work but shall not be construed as authority to violate, cancel, alter or set aside any of the provisions of this code, nor shall such issuance of a permit prevent the building official from thereafter requiring a correction of errors in plans or in construction or of violations of this code. Although a permit issued to an owner is transferable to another owner, actual notice of the transfer of permit shall be given to the building official prior to the transfer. Building permits shall be issued following the approval of site and construction plans. Building permits on multifamily projects shall be issued on each individual building or structure. Multitenant occupancies, including but not limited to shopping malls, may be permitted on an individual building or structure (shell); however, individual permits shall be used separately for tenant spaces.

104.1.6.2 The first inspection required by the permit must be successfully completed ~~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.

104.1.6.3 The entire foundation must be completed within the first six months from the issuance of the permit. Partial inspections

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

Section 104.7.2, relating to work commencing before permit issuance, is amended to read as follows: *[deleted in its entirety]*

Section 106.1.2, relating to issuing certificate of occupancy, is amended to read as follows: *[deleted in its entirety]*

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

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

Section 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: *[deleted in its entirety]*

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. [deleted in its entirety]~~

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: *[deleted in its entirety]*

Section 1203.6 is amended to add the following:

~~**1203.6 Heating facilities.** [deleted in its entirety]~~

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: *[deleted in its entirety]*

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.

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

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

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

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

3401.5 Special historic buildings.

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

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

~~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:~~

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

The entire incorporated area of the Town of Fort Myers Beach lies within the wind-borne debris region and the 130 mph basic wind speed zone as

established by section 1606.1.6 and figure 1606 of the Florida Building Code.

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

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

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

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

Secs. 6-115 ~~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 Florida 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--6-230 ~~130~~. Reserved.

DIVISION 5. PLUMBING CODE

[deleted in its entirety]

DIVISION 6. MECHANICAL CODE

[deleted in its entirety]

DIVISION 7. GAS CODE

[deleted in its entirety]

DIVISION 8. ELECTRICAL CODE

[deleted in its entirety]

DIVISION 9. FIRE CODES

[deleted in its entirety]

**DIVISION 5. 10.
CONTRACTOR LICENSING**

[no further changes to this division]

ARTICLE III. COASTAL CONSTRUCTION CODE

DIVISION 1. GENERALLY

Sec. 6-331. Origin.

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

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

The purpose of this article is to provide minimum standards for the design and construction of buildings and structures to reduce the harmful effects of hurricanes and other natural disasters throughout the town. These standards are intended to specifically address design features which affect the structural stability of the beach, dunes and topography of adjacent properties. In the event of a conflict between this article section and other portions sections of this code, 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, which is regulated by article I of ch. 14.

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

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

Sec. 6-333. Definitions.¹

(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: Words or phrases not defined will be interpreted so as to give them the meaning they have in common usage and to give this article its most reasonable application.

~~**Beach or shore** 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.~~

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

...

¹*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:~~

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

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

...

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

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

~~**Nonhabitable major structure** includes, but is not limited to, swimming pools; parking garages; pipelines; and public 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.~~

...

~~(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. 6-3348. 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. 6-3359--6-360. Reserved.~~

**DIVISION 2.
COASTAL CONSTRUCTION STANDARDS**

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

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

~~**Sec. 6-362. Reserved.** 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 Special requirements near beaches. for nonhabitable major structures:

(a) *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.

- (1) Locational criteria for major structures are found in § 6-366(b).
- (2) Structural and permitting criteria for major structures are found in ch. 31 of the Florida Building Code and in ch. 62B of the Florida Administrative Code.

- (3) All sewage treatment and public water supply systems must be floodproofed to prevent infiltration of surface water anticipated from a 100-year storm event.
- (4) Underground utilities, excluding pad transformers and vaults, must be floodproofed to prevent infiltration of surface water expected from a 100-year storm event, or must otherwise be designed to function when submerged under such storm conditions.

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

(b) *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 and to reduce the potential for water and wind blown material.

- (1) Locational criteria for minor structures are found in § 6-366(b).
- (2) Construction of a rigid coastal or shore protection structure designed primarily to protect a minor structure is not permitted; see article II of ch. 26 for detailed regulations.

Sec. 6-365. Reserved.

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

(a) Except for beach renourishment and for minor structures such as elevated walkways, lifeguard support stands, piers, and beach access ramps, and gazebos, and coastal or shore protection structures, all construction must be located a sufficient distance landward of the beach to permit natural shoreline fluctuations and to preserve dune stability. ~~(b) In addition to complying with all other provisions of this code, At a minimum, major structures must~~ be built landward of the 1978 coastal construction control line except where a major structure may be specifically allowed by this code to extend across this line. The 1978 coastal construction control line which is depicted on the Future Land Use Map as the seaward edge of

land-use categories allowing urban development- and as the landward edge of the Recreation land-use category. This line is also the landward edge of the EC (Environmentally Critical) zoning district.

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

- (1) Other provisions of this code provide for certain other minor structures in the EC zoning district:
 - a. Perpendicular dune walkovers are permitted by right in accordance with § 10-415(b) and subsection (d) below.
 - b. Some temporary structures such as tents may be permitted through a temporary use permit for special events held on the beach, in accordance with § 14-11.
 - c. Licensed beach vendors may place rental equipment and/or a temporary movable structure in accordance with § 14-5, ch. 27, and § 34-3151 of this code.
- (2) Minor structures that are not permitted by right may be approved in the EC zoning district through the special exception process or as deviations in the planned development rezoning process. Such minor structures may include stairways, walkways, ramps, fences, walls, decks, bathhouses, viewing platforms, gazebos, chickees, patios, and other paved areas. These structures should be located as close to the landward edge of the EC zoning district as possible and must minimize adverse effects on the beach and dune system. See §§ 34-88, 34-932(b), and 34-652 for details.
- (3) Minor structures not qualifying by right, by special exception, or through another provision of this code are not permitted in the EC zoning district. See § 34-652 for details.

(c) When existing major structures that were built partially or fully seaward of the 1978 coastal construction control line are reconstructed, they

shall be rebuilt landward of this line. Exceptions to this rule may be permitted through the planned development zoning process only where it can be scientifically demonstrated that the 1978 coastal construction control line is irrelevant because of more recent changes to the natural shoreline. The town shall seek the opinion of the Florida Department of Environmental Protection in evaluating any requests for exceptions. Exceptions must also comply all state laws and regulations regarding coastal construction.

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

- (1) Walkovers must be placed perpendicular to the dune or no more than 30 degrees from perpendicular. New walkovers cannot be placed closer than 150 feet to the nearest walkover.
- (2) Walkovers must be supported on posts embedded to a sufficient depth to provide structural stability. These posts may not be encased in concrete.
- (3) Walkovers cannot exceed 4 feet in width when serving single-family homes or 6 feet in width otherwise.
- (4) Walkovers must be elevated at least 2 feet above the highest point of the dune and dune vegetation and must extend to the seaward toe of any existing dune and dune vegetation.
- (5) Walkovers must be constructed in a manner that minimizes short-term disturbance of the dune system. Any dune vegetation destroyed during construction must be replaced with similar native vegetation that is suitable for beach and dune stabilization.
- (6) Walkovers may not be constructed during the sea turtle nesting season (May 1 through October 31).

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

Sec. 6-367. Public access.

Development or construction activity may not interfere with accessways established by the public through private lands to lands seaward of mean high tide line or mean high-water line by prescription,

prescriptive easement or any other legal means, unless the developer provides a comparable alternative accessway. The developer has the right to improve, consolidate or relocate such public accessways if the accessways provided are:

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

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. 6-405. Definitions.²

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context

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

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.

...

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

...

Cost of improvements means the total of all costs for the repair, reconstruction, rehabilitation, additions, or other improvements to a structure. These costs include materials, labor, profit, and overhead, and include the costs of demolition and built-in appliances, but do not include the costs of plans, surveys, permits, or outdoor improvements such as landscaping. These costs may be substantiated by a contractor licensed in accordance with §§ 6-231-330 through submission of actual construction contracts, accompanied by the contractor's affidavit attesting to their accuracy and completeness. The coordinator may also accept other reliable methods for substantiating costs, such as building valuation tables published by the International Code Council, provided the type of construction and extent of improvement is accurately reflected.

...

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, or by an independent appraisal commissioned by 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 or a new independent appraisal, to be commissioned by the coordinator, with the full cost of the review or new appraisal paid by the applicant to the town prior to initiation of the review process.

...

Repetitive loss means flood-related damages sustained by a structure on two or more 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.

...

[no further changes to this section]

DIVISION 3. STANDARDS

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 any~~ additional enclosed 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 a building with existing floor space that is elevated to base flood elevation or to within 2 feet of base flood elevation, ~~an elevated structure~~ and does not include any space that has been used to park vehicles.

[no further changes to this section]

EXHIBIT D
FORT MYERS BEACH LAND DEVELOPMENT CODE

CHAPTER 10 — DEVELOPMENT ORDERS AND ENGINEERING STANDARDS

**ARTICLE I.
IN GENERAL**

Sec. 10-1. Definitions and rules of construction.

(a) *Rules of construction and analogous words and terms.* [no changes]

(b) *Definitions.* Except where specific definitions are used within a specific section of this chapter for the purpose of such sections, the following terms, phrases, words, and their derivations will have the meaning given in this subsection when not inconsistent with the context:

County means Lee County, Florida.

[no further changes to this section]

Sec. 10-7. General requirements.

(a) [no changes]

(b) [no changes]

(c) [no changes]

(d) Except as otherwise provided for in this chapter, permits for development, including building permits, shall only be issued after the issuance of, and in compliance with, a development order. No development permit, building permit, or tree removal permit, or notice of clearing shall be issued on a parcel of land, or any portion thereof, that is the subject of existing violations of this code, regardless of whether the applicant or his principal owned the property at the time the violation occurred. However, this subsection shall not prevent issuance of a permit for the specific purpose of resolving or abating the violation.

(e) [no changes]

(f) [no changes]

(g) [no changes]

(h) [no changes]

**ARTICLE II. DEVELOPMENT
ORDERS AND PLATS**

DIVISION 2. DEVELOPMENT ORDERS

Subdivision III. Submittals

Sec. 10-154. Additional required submittals.

The following additional items shall be submitted with an application for development order approval:

- (1) **Legal description.** A legal description for the property shall be submitted. If the application includes multiple abutting parcels or consists of other than one or more undivided platted lots, the legal description must specifically describe the perimeter boundary of the total property, by metes and bounds with accurate bearings and distances for every line, but need not describe each individual parcel. The director has the right to reject any legal description which is not sufficiently detailed to locate the property on official maps.
- (2) **Title assurance.** [no changes]
- (3) **Boundary survey.** [no changes]
- (4) **Plat.** [no changes]
- (5) **Zoning resolution.** [no changes]

- (6) **Existing conditions and improvements drawing.** [no changes]
- (7) **Proposed development plan drawings.** Proposed development plan drawings showing at a minimum the following:
 - a. **Lot lines.** [no changes]
 - b. **Phasing plan.** [no changes]
 - c. **Proposed buildings or proposed structures.** The building envelope, that is, the perimeter of the area within which the building will be built, the finished floor elevation and height of all buildings and structures, the maximum number of dwelling units or gross floor area, and no less than the minimum number of required parking spaces, including the number of spaces for the handicapped, shall be shown.
 - d. **Open space and recreation.** [no changes]
 - e. **Access.** [no changes]
 - f. **Streets.** [no changes]
 - g. **Sidewalks.** [no changes]
 - h. **Transit.** [no changes]
 - i. **Parking and service areas.** [no changes]
 - j. **Utilities.** [no changes] location of services shall be shown.
 - k. **Drainage and stormwater management plan.** [no changes]
 - l. **Landscaping and buffering.** [no changes]
 - m. **Irrigation** [no changes] be retained on the development site.
 - n. **Historical and archaeological resources.** [no changes]
 - o. **Excavations.** [no changes]
 - p. **Wetlands.** [no changes]
- (8) **Exterior lighting plan, photometrics, and calculations.** An exterior lighting plan and photometric information must be submitted in accordance with the requirements of §§ 10-8(9) and ~~ch.~~ 34-1831-1833.
- (9) **Aerial photograph.** [no changes]
- (10) **Traffic impact statement.** [no changes]
- (11) **Traffic impact mitigation plan.** [no changes]
- (12) **Hazardous materials emergency plan.** [no changes]
- (13) **Protected species survey.** [no changes]
- (14) **Protected species habitat management plan.** [no changes]

- (15) **Certificate to dig; historic preservation forms and reports.** [no changes]
- (16) **Historical/archaeological impact assessment.** [no changes]
- (17) **Exotic vegetation removal plan.** [no changes]
- (18) **Calculations and other pertinent materials.** [no changes]
- (19) **Emergency preparedness plan.** [no changes]
- (20) **State permits.** [no changes]
- (21) **Operation and maintenance covenants.** [no changes]
- (22) **Articles of incorporation or other legal documents for assignment of maintenance.** [no changes]
- (23) **Opinion of probable construction costs.** [no changes]

**DIVISION 3.
LIMITED REVIEW PROCESS**

Sec. 10-174. Types of development entitled to limited review.

The following types of development may be processed in accordance with this division:

- (1) A cumulative addition or enlargement of an existing impervious area, provided that the addition or enlargement does not increase the total impervious cover area by more than 2,500 square feet and there is no increase in the rate of runoff from the project site.
- (2) Any out-of-door type recreational facilities, such as swimming pools, tennis courts, tot lots, and other similar facilities, provided the total cumulative additional impervious area does not exceed 8,000 square feet.
- (3) Any one-time subdivision of land into 4 or less lots where zoning district regulations permit such subdivision; provided, however, that:
 - a. Each lot must meet or exceed all requirements of the zoning district in which located;
 - b. Each lot abuts and has access to an existing improved road right-of-way or easement meeting at least the minimum construction standards required by this chapter;

- c. No significant alteration of existing utility installations is involved;
 - d. No change in drainage will occur which adversely affects the surrounding properties; and
 - e. No new road rights-of-way or road easements or upgrading of road rights-of-way or road easements to minimum standards contained in this chapter is required. ~~;~~ and
 - f. ~~No commercial or multifamily development may occur on any of the lots without first obtaining a development order.~~
- (4) Reserved. Any single building of two dwelling units or less and any accessory improvements thereto on a single nonconforming lot, as defined in article V of ch. 34.
 - (5) Any improvements for public water access purposes in town-owned or town-maintained rights-of-way.
 - (6) Any development for a fenced or screened outdoor enclosed storage yard as defined in ch. 34, provided that the yard consists solely of a stabilized grassed surface, a surface water management system, buffers, and fencing; and provided further that site access complies with the provisions of this chapter and ch. 34.
 - (7) The installation of new utility lines in existing right-of-ways or easements.
 - (8) Any other improvement to land determined by the director to have insignificant impacts on public facilities in accordance with applicable standards of measurement in this chapter (vehicular trips, amount of impervious surface, gallons per day, etc.).

DIVISION 5. PLATS

Sec. 10-213. Technical requirements.

Technical requirements for plats shall be the same as required by Lee County's administrative code AC-13-19 at the time the plat is approved. References in AC-13-19 to the county's land development code and to county commissioners and other county officials shall be interpreted to refer to the town's land development code and town officials, except for references to the county clerk.

ARTICLE III. ENGINEERING AND ENVIRONMENTAL DESIGN STANDARDS

DIVISION 2. TRANSPORTATION, ROADWAYS, STREETS, and SIDEWALKS

Sec. 10-296. Street design and construction standards.

- (a) *Generally.* [no changes]
- (b) *Right-of-way or easement width.* [no changes]
- (c) *Street design and construction standards.* [no changes]
- (d) *Street development categories.* For purposes of interpreting the specifications contained in Table 10-2, development categories are defined as follows (with densities computed in accordance with § 34-632):
 - (1) **Category A** shall include streets and alleys in commercial developments and all developments not described in categories B and C.

- (2) **Category B** shall include streets and alleys in residential developments denser than 4 dwelling units per acre.
- (3) **Category C** shall include streets and alleys in residential developments with ~~less than 4~~ or fewer dwelling units per acre.

[no further changes to this section]

**DIVISION 3.
SURFACE WATER MANAGEMENT**

Sec. 10-329. Excavations.

- (a) **Applicability.** [no changes]
- (b) **Excavation types and required approvals.** [no changes]
- (c) **Standards.** All new excavations regulated by this section will be subject to the following standards:
 - (1) **Setbacks for excavations.**
 - a. No excavations will be allowed within:
 - 1. Twenty-five feet of an existing street right-of-way line or easement for a local street;
 - 2. Fifty feet of any private property line under separate ownership unless granted an administrative deviation in accordance with § 10-104. In no event may the setback for an excavation from a private property line may be less than 25 feet. This setback does not apply to lots developed concurrently with the excavation for water retention when part of a development order.
 - b. All excavation setbacks must be measured from the mean high water (MHW) or the waterbody control elevation line.
 - (2) **Maximum controlled water depth.** Excavations may not have a controlled water depth greater than 12 feet.
 - (3) **Excavation bank slopes.** The design of shorelines of excavations must be sinuous rather than straight, ~~as described in division 6 of this article:~~ to provide increased length and diversity of the littoral zone. Sinuous means

serpentine, bending in and out, wavy, or winding. The banks of all excavations regulated by this section must be sloped at a ratio not greater than 4 horizontal to 1 vertical from the top of the excavation to a water depth of 4 feet below the dry season water table. The slopes must be not greater than 2 horizontal to 1 vertical thereafter, except where the director determines that geologic conditions would permit a stable slope at steeper than a 2 to 1 ratio. Excavation bank slopes must comply with the shoreline configuration, slope requirements, and planting requirements for mimicking natural systems as specified in § 10-418 of Lee County's land development code.

Cross reference(s)--Excavations generally, § 34-1651 et seq.

DIVISION 5. FIRE SAFETY

Sec. 10-385. Design standards.

- (a) **General design standards.** [no changes]
- (b) **Fire flows.** The water distribution system shall be capable of delivering fire flows as follows:
 - (1) Requirements for one- and two-family developments are as follows:

TABLE 10-3. FIRE FLOWS	
Distance Between Buildings	Needed Fire Flow (gpm)
Over 30 feet	500
0 to 30 feet	750

Developments not capable of delivering the required fire flow shall provide automatic sprinkler systems in accordance with NFPA #13D most current adopted edition or shall provide an additional source of water for fire protection in accordance with § 10-386.

- (2) All other building shall calculate required fire flows in accordance with the formula shown in subsection (b)(3) of this section. This formula establishes a base flow from which

the degree of hazard and credit for sprinkler protection will result in a final needed fire flow. NFPA #13 most current adopted edition shall be used for the purpose of determining hazard classification.

TABLE 10-4. FIRE FLOWS FOR OTHER BUILDINGS	
Classification	Application
Light	Light
Ordinary I and II	Ordinary
Ordinary III and higher	High

- (3) Fire flow is based on the following formula:
 $F = 18 \text{ multiplied by } C \text{ multiplied by } A.$

TABLE 10-5. CO-EFFICIENTS FOR FIRE FLOW FORMULA
F =Gallons per minute flow at 20 pounds per square inch residual.
C =Constant based on type of building construction.
Coefficients based on construction type:
1.5 =Wood (type VI).
1.0 =Ordinary (type V).
0.8 =Noncombustible (type III and IV).
0.6 =Fire resistive (type I and II).
A =The square root of the gross floor area (as defined in the <u>Florida Standard Building Code, most current adopted edition</u>) of all floors. <u>Area of buildings without walls shall be calculated using building area as defined in the 1988 Standard Building Code.</u>
Fire resistive construction need only be calculated on the three largest successive floors.
A four-hour fire resistive wall may be used to reduce total square footage of a building providing the wall intersects each successive floor of the building.
BF =Base flow established from the formula $F = 18 C \text{ multiplied by } A.$
FF =BF multiplied by 0.75 (light hazard occupancy).
FF =BF multiplied by 1 (ordinary hazard occupancy).
FF =BF multiplied by 1.25 (high hazard occupancy).

If the building is protected by an automatic sprinkler system installed in accordance with all state and local codes, the fire flow requirement will be deemed to have been satisfied.

- (4) A minimum flow in all cases will be 500 gallons per minute with a 20 pounds per square inch residual.
- (5) In areas that cannot meet a flow of 500 gallons per minute, alternate sources of water may be acceptable, subject to fire official approval.

- (c) **Water main installation.** [no changes]
- (d) **Hydrant spacing.** [no changes]

DIVISION 6. OPEN SPACE, BUFFERING, AND LANDSCAPING

Sec. 10-415. Open space.

(a) All development must maintain, at a minimum, the open spaces outlined in the table below: [no changes]

(b) **Indigenous plant communities.** The major indigenous plant communities in the town are listed in § 10-413. Dune vegetation and landward line of dune vegetation are is defined in § 14-1. These plant communities must be identified in each application for a development order on the existing conditions drawing (see § 10-154).

- (1) **Wetlands:** On each development site, 100% of indigenous plant communities that consist of wetlands must be maintained as open space, except as permitted by article II of ch. 26 to accommodate a shoreline structure or as permitted by article IV of ch. 14.
- (2) **Dune vegetation:** On each development site, 100% of coastal scrub (beach/dune) vegetation must be maintained as open space, except as permitted by article III of ch. 6 and article I of ch. 14.
 - a. Where pedestrians need to cross dune vegetation, perpendicular dune walkovers may be constructed in this open space at intervals of at least 150

feet to protect the vegetation (see § 6-366(d)).

- b. Newly created lots and parcels must be of sufficient size and dimension to ensure a 50-foot buffer between any structures (excluding dune walkovers) and the landward ~~line of edge of the primary dune and any dune vegetation.~~
- (3) *Other uplands:* On each development site, at least 50% of indigenous plant communities other than coastal scrub (beach/dune) vegetation that consists of uplands must be maintained as open space. However, if these communities contain occupied habitat for listed species, the additional requirements of division 8 of this article also apply.

(c) **Beaches.** Most of the town’s beaches are located seaward of the 1978 coastal construction control line (CCCL) and thus are designated in the Recreation category on the Future Land Use Map and are zoned EC (Environmentally Critical).

- (1) If the 1978 coastal construction control line (CCCL) crosses property in an application for a development order, this line must be shown on the existing conditions drawing (see § 10-154).
- (2) Land that is zoned EC shall be maintained as open space, except as specifically permitted in § 34-652 or by other explicit provisions of this code such as § 6-366.

(d) **Archaeological and historical sites.** [no changes]

(e) **Protected trees.** [no changes]

(f) **Landscaping of parking and vehicle use areas.** [no changes]

(g) **Perimeter buffers.** [no changes]

Sec. 10-416. Landscaping standards.

(a) **Tree planting required.** [no changes]

(b) **Building edge plantings.** [no changes]

(c) **Landscaping of parking and vehicle use areas.** [no changes]

(d) **Perimeter buffering.** Perimeter buffering is required for certain proposed developments as

described in this section. In addition, existing developments that do not comply with the provisions of this section must be brought into conformity to the maximum extent possible when the vehicular use area is altered or expanded (except for resealing or restriping), or when the building square footage is increased, or when there has been a discontinuance of use for a period of one year or more and a request for an occupational license to resume business is made.

- (1) **Use categories.** [no changes]
- (2) **Buffer requirements.** [no changes]
- (3) **Buffer types.** Table 10-9 describes six buffer types. Each buffer type, identified by a letter, provides a minimum number of trees and shrubs per 100-linear-foot segment and indicates whether or not a wall or hedge is required within the buffer.

**TABLE 10-9.
BUFFER TYPES (per 100 linear feet)**

Buffer types:	A	B	C	D	E	F
<i>Minimum width in feet</i>	5	15	15	15	25	30
<i>Minimum # of trees</i>	4 ³	5 ³	5 ³	5 ³	5 ³	10 ³
<i>Minimum # of shrubs</i>	–	Hedge ²	18	Hedge ²	30	Hedge ²
<i>Wall required¹</i>	No	No	Yes	No	Yes	No

Notes:

¹A solid wall, berm, or wall and berm combination, not less than 6 feet in height. All trees and shrubs required in the buffer must be placed on the residential side of the wall. The height of the wall must be measured from the average elevation of the street or streets abutting the property as measured along the centerline of the streets, at the points of intersection of the streets with the side lot lines (as extended) and the midpoint of the lot frontage. Walls must be constructed to ensure that historic flow patterns are accommodated and all stormwater from the site is directed to on-site detention/retention areas in accordance with SFWMD requirements.

²Hedges must be planted in double staggered rows and be maintained so as to form a 3-foot high continuous visual screen within one year after planting, except that in type F buffers the hedges must be 4 feet at installation and be maintained at 5 feet high.

³Trees within the ROW buffer must be appropriately sized in mature form so that conflicts with overhead utilities, lighting, and signs are avoided. The clustering of trees and use of palms within the ROW buffer will add design flexibility and reduce conflicts. Trees and shrubs may not be planted closer than 3 feet to any sidewalk or bike path or to the right-of-way of Estero Boulevard (see § 6-4).

- (4) *Public facilities.* [no changes]
- (5) *Easements.* [no changes]
- (6) *Vehicle visibility.* Walls, berms and buffer plantings must not be placed so they violate the vehicle visibility requirements of § 34-3131 ~~662(b)(4)~~.
- (7) *Development abutting natural bodies of water.* [no changes]
- (8) *Development abutting wetlands.* There must be a 75-foot separation between wetlands and all buildings or other impervious surfaces, as mandated by Policy 4-C-12 of the Fort Myers Beach Comprehensive Plan (see also § 34-638(c)).
- (9) *Use of buffer areas.* [no changes]

Sec. 10-421. Plant installation and maintenance standards.

- (a) *General design criteria for plantings.* [no changes]
- (b) *Installation of plant materials.* [no changes]
- (c) *Maintenance of landscaping.* [no changes]
- (d) **Pruning.** Vegetation required by this code may only be pruned to promote healthy, uniform, natural growth of the vegetation (except where necessary to promote public health, safety, or welfare). Pruning must and be in accordance with “Tree Care Operations – Tree, Shrub, and Other Woody Plant Maintenance – Standard Practices (Pruning) (ANSI A300, Part 1)” by the American National Standards Institute and “Best Management Practices: Tree Pruning” by the International Society of Arboriculture (ISA). “Tree, Shrub and Other Woody Plant Maintenance – Standard Practices” (ANSI A300-1995, available from the National Arborist Association). Trees must not be severely pruned to permanently maintain growth at a reduced height or spread. Pruning must not interfere with the design intent of the original installation. Severely pruned trees must be replaced by the property owner; replacement trees must meet the tree size requirements in § 10-420. A plant’s growth habit must be considered in advance of

EXHIBIT E

FORT MYERS BEACH LAND DEVELOPMENT CODE

CHAPTER 26 — MARINE FACILITIES¹

ARTICLE II. SEAWALLS, DOCKS, AND OTHER SHORELINE STRUCTURES

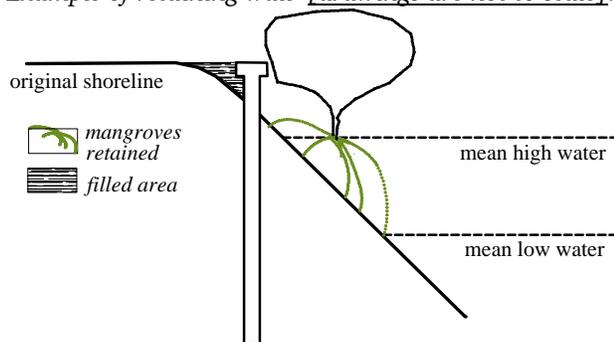
DIVISION 1. GENERALLY

Sec. 26-41. Definitions.

Multi-slip dock ~~has the meaning provided in § 34-2.~~ means two or more docks which will provide vessel mooring slips to unrelated individuals, either for rent or for sale. A multi-slip dock is distinguished from a marina in that no commercial activity is associated with a multi-slip dock.

Retaining wall means a vertical bulkhead constructed landward of the mean high-water line and landward of wetland vegetation to protect the shoreline from erosion.

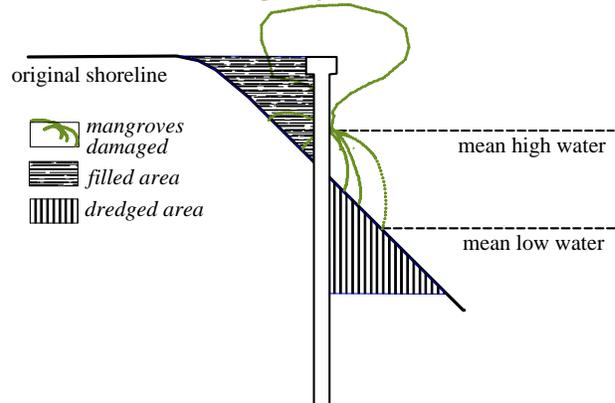
Example of retaining wall [drawings are not to scale]:



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

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

Example of seawall:



Tie-up area means the water adjacent to a dock, boat ramp, boat lift, davit, or boathouse designed to be occupied by moored watercraft.

DIVISION 2. LOCATION AND DESIGN

Sec. 26-71. Docks and boat ramps.

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

- (a) *Number of docks and slips.* [no changes]
- (b) *Length of docks.* [no changes]
- (c) *Maximum dimensions of docks.* [no changes]
- (d) *Setbacks.* [no changes]
- (e) *Location.* [no changes]
- (f) *Minimum water depths.* [no changes]
- (g) *Sec. 26-72: Dock boxes.* Dock boxes on private single-family docks may not exceed three feet in height and 100 cubic feet in volume. Such dock boxes do not require building or marine facility permits.

Sec. 26-72. Boat lifts and davits.

Boat lifts and davits will be permitted only in accordance with the following regulations:

- (1) All equipment and adjoining tie-up areas must meet the relevant locational and dimensional criteria for docks or boathouses.
- (2) All equipment must structurally adequate to support expected loads.
- (3) Electrical connections and equipment are subject to permitting and inspections in accordance with ch. 6 of this code.
- (4) Fixed or flexible boat coverings must be built within or meet all requirements for boathouses (see § 26-74), or they must fit tightly around the boat they protect.

EXHIBIT F

FORT MYERS BEACH LAND DEVELOPMENT CODE

CHAPTER 30 — SIGNS

-
- Sec. 30-1. Purpose and intent of chapter.*
Sec. 30-2. Definitions and rules of construction.
Sec. 30-3. Reserved.
Sec. 30-4. ~~3.~~ Applicability of chapter.
Sec. 30-5. ~~4.~~ Prohibited signs.
Sec. 30-6. ~~5.~~ Permitted Allowable signs.
Sec. 30-7. ~~6.~~ Parking of advertising vehicles.
Secs. 30-8. ~~7.~~–30-50. Reserved.
Sec. 30-51. Violation of chapter; penalty.
Sec. 30-52. Reserved.
Sec. 30-53. Powers and duties of town manager.
~~building official.~~
Sec. 30-54. Variances.
Sec. 30-55. Permits; inspections.
Sec. 30-56. Non-conforming signs.
Secs. 30-57–30-90. Reserved.
Sec. 30-91. Measurement of sign area.
Sec. 30-92. Measurement of sign height.
Sec. 30-93. Location.
Sec. 30-94. Construction standards; landscaping.
Sec. 30-95. Sign identification and marking.
Sec. 30-96. Maintenance.
Secs. 30-97–30-150. Reserved.
Sec. 30-151. Temporary signs.
Sec. 30-152. Permanent identification signs in residential areas.
Sec. 30-153. Permanent identification signs in commercial areas.
-

Sec. 30-1. Purpose and intent of chapter.

The town council finds and declares:

(a) An excess of signs causes a visual blight on the appearance of the town by detracting from views of structures and open space. This visual blight adversely affects the aesthetic quality of life and traffic safety on Fort Myers Beach for residents, businesses, pedestrians, and persons in vehicles. In

order to promote the appearance of the town, while protecting the rights of sign owners to expression and identification, the regulation of existing and proposed signs is necessary to protect the public health, safety, and general welfare.

(b) The purpose of ~~this chapter~~ ~~the Fort Myers Beach sign code~~ is to encourage signs which are integrated with and harmonious to the buildings and sites which they occupy, to eliminate excessive and confusing sign displays, to preserve and improve the appearance of the town as a place in which to live and work and as an attraction to nonresidents who come to visit or trade, and to restrict signs which increase the probability of accidents by distracting attention or obstructing vision.

(c) ~~The Fort Myers Beach sign code~~ This chapter provides minimum standards to safeguard life, safety, property, and public welfare ~~by reviewing design and~~ by regulating size, construction, location, electrification, operation, and maintenance of all signs and sign structures exposed to public view within the town. The visual appearance and traffic safety of the town cannot be achieved by measures less restrictive than the procedures and standards of this chapter.

Sec. 30-2. Definitions and rules of construction.

(a) In case of any difference of meaning or implication between the text of this chapter and any other law or regulation, this chapter shall control.

(b) The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning.

Abandoned sign. A sign which no longer advertises or identifies a legal business establishment, product, or activity. See § 30-~~5.4(4)~~.

~~*Advertising message.* Copy on a sign describing commodities, products or services being offered to the public.~~

Alteration. Any change in copy, color, size, or shape, which changes appearance of a sign, or a change in position, location, construction, or supporting structure of a sign, except that a copy change on a sign specifically designed for the use of replaceable copy, e.g., an attraction or reader board with changeable letters, is not an alteration.

Animated sign. Any sign which has any visible moving part, any flashing or osculating lights, any intermittent or alternating lights that cause visible messages to change, any visible mechanical movement of any description, or any other apparent visible movement achieved by any means. Electronic message boards and electronic changing message centers are considered to be animated signs. See § 30-5.4(5).

Awning sign. Any sign consisting of letters which are painted or installed on a lawful awning, but not including a back-lit awning. See §§ 30-6(a) and 30-153.

Back-lit awning. An awning with a translucent covering material and a source of illumination contained within its framework. See §§ 30-5 and 30-153.

Balloon sign. One or more balloons, with or without messages or illustrations, that are used as a temporary or permanent sign or as a means of directing attention to a business or organization or to a commodity, service, or entertainment. See § 30-5.

Banner. A temporary sign of flexible plastic, cloth, or any other fabric that is hung between light poles or buildings so that it is in prominent view of motorists or pedestrians. See §§ 30-5 and 30-151.

Bench sign. A sign that is painted on or attached to any part of a bench, seat, or chair placed one or adjacent to a public street, public plaza, or beach access. See § 30-6(a).

Billboard. A sign that directs attention to a business, commodity, service, or entertainment conducted, sold, or offered at a location other than

the premises on which the sign is located. See § 30-5.

~~*Building frontage.* The linear dimensions of a building which faces upon a public street projected along the street property line. Where a building faces two or more streets, the frontage containing the principal street address shall be designated as the building frontage.~~

Building numbers. The building number assigned by Lee County as the official building address, painted or affixed to a building, mailbox, or similar structure. See §§ 30-6(a) and 30-153.

Building official. The same officer as appointed by the town manager through § 6-44.

~~*Bulletin board.* A sign which identifies an institution or organization on the premises on which it is located and which contains the names of individuals connected with it and general announcements or events or activities occurring at the institution or similar messages. It shall not be interpreted to include movie theaters or other similar commercial activities.~~

Business affiliation sign. Signs displayed upon the premises denoting professional and trade associations with which the occupant is affiliated, including each credit card accepted by the occupant. See § 30-6(a).

Business announcement sign. A temporary sign announcing a project to be under construction, or an intended use of the premises, that will occur within 60 days after erection of the sign. See § 30-6(b).

~~*Building identification Business information sign.* Any sign containing the name or address of a building and may include hours of operation, information to customers such as business hours and telephone number, “open” and “closed,” “shirts and shoes required,” “no soliciting,” “no loitering,” and emergency information such as sign being located on the same site as the structure.~~ See § 30-6(a).

Canopy. A permanent roof-like shelter open on four sides, to protect an area from the elements, such as over gasoline pumps.

Canopy sign. Any permanent sign attached to or constructed in, or on, or below a canopy. See § 30-5.

~~**Changeable copy sign (manual).** A sign on which copy is changeable manually in the field, i.e. reader boards with changeable letters or changeable pictorial panels.~~

~~**Changing sign (automatic).** See *Electronic changing message center.*~~

~~**Commercial advertising sign.** Any structure, poster board, bulletin board, neon sign, screen, surface or wall with characters, letters or illustrations affixed thereto, thereon or thereunder, by any method or means whatsoever, where the matter displayed would be used for the purpose of publicly advertising the legal or exact firm or organization name or the name of the business carried therein or thereon.~~

Construction sign. A non-permanent sign identifying the persons, firms, or businesses directly connected with a construction project. See §§ 30-6(b) and 30-151.

~~**Convenience sign.** A sign which conveys information such as “no parking,” “entrance,” “service entrance,” “restroom,” “manager,” “exit,” and the like, but does not contain brand, trade, or business identification, and is designed to be viewed on-site or adjacent to the site by pedestrians and motorists.~~

Development sign. A sign designed and intended to advertise and promote the sale or rental or lease of lots or homes in any residential development, and also in commercial areas for sale or rental or lease of units in the development. See §§ 30-6(b) and 30-151.

Directional sign. Any sign which serves solely to designate the location of or direction to any place or area. See §§ 30-6(a) and (b) and 30-151.

Double-faced sign. A single plane with items of information identical on both sides and mounted as a single structure. See § 30-94.

~~**Electronic changing message center.** See animated sign.~~

~~**Emitting sign.** A sign designed to emit visible smoke, vapor, particles, or odor, or a sign which produces noise or sounds capable of being heard, even though the sounds produced may not be understandable. See § 30-5.~~

Erect. To build, construct, attach, hang, place, suspend or painting of wall signs.

Face of sign. The entire area of a sign on which copy could be placed.

~~**Figure-structured sign.** A sign which consists of sculptured, inflated, or otherwise constructed in the caricature or shape of an animal (including human beings) or vegetable, whether fictional or real, any body form, impression or frame. Or cylindrical or other form, sculptured or otherwise constructed, emblematic or symbolic of a personage or the characteristic or quality of either; which is used commercially to attract or draw attention to a business or commercial establishment. See § 30-5.~~

~~**Free-standing sign.** Any sign which is permanently affixed in or upon the ground, supported by one or more structural members, with air space between the sign and the ground space.~~

Frontage. The distance measured along a public street right-of-way or a private street easement between the points of intersection of the side lot lines with the right-of-way of the easement line.

Government sign. Any sign erected and maintained pursuant to and in discharge of any governmental function, or required by law, ordinance or other governmental regulation. See § 30-6(a).

Grade. The level of the site at the property line located at the closest distance to the sign.

~~**Ground sign.** Any sign which is neither attached to nor part of a structure and which is permanently affixed in or upon the ground where the sign support is no greater than 1/3 of the height of the sign off the ground. An illustration would be as follows: a 4-foot by 6-foot sign could be placed a maximum of 16 inches off the ground. Permitted ground signs must also be monument signs as defined in this chapter.~~

~~*Height of sign.* See § 30-92, pertaining to measurement of sign height.~~

~~*Holiday decorations.* Signs or displays including lighting which are a non-permanent installation celebrating national, state, and local holidays or holiday seasons. See § 30-6(a).~~

~~*Identification sign.* Any sign where the matter displayed is used only to indicate the name, address, number of building, logo, trademark, and business activity or character of the primary land use. Identification signs may be awning signs, monument signs, nameplates, projecting signs, sandwich signs, wall signs, or window signs. See §§ 30-6(b), 30-152, and 30-153.~~

~~*Illegal sign.* Any sign placed without proper approval or permits as required by the Fort Myers Beach code at the time of sign placement. Illegal sign shall also mean any sign placed contrary to the terms or time limits of any permit and any non-conforming sign which has not been brought into compliance with the provisions of this chapter. See § 30-56(c).~~

~~*Illuminated sign.* Any electrically operated sign or any sign for which an artificial source is used in order to make readable the sign's message, including internally and externally lighted signs and reflectorized, glowing, or radiating signs. See §§ 30-6(b) and 30-94(d).~~

~~*Licensed contractor.* A person holding a valid contractor's license issued by the Lee County construction board. See §§ 6-231-237.~~

~~*Light bulb string.* A display consisting of a row or rows of bare light bulbs.~~

~~*Maintain.* To preserve from decline, keep in an existing state or retain in possession or control.~~

~~*Marquee.* A permanent roof-like structure extending from part or all of a building face and constructed of some durable material which may or may not project over a public right-of-way.~~

~~*Marquee sign.* A sign, painted on or attached to or supported by a marquee.~~

~~*Menu display box.* A small plaque or display case that displays a restaurant's menu near its entrance for the convenience of potential patrons who arrive on foot. See § 30-6(b).~~

~~*Monument sign.* A free-standing sign with internal structural supports, where the height from the ground to the highest point on the sign is less than the sign's greatest horizontal dimension. See §§ 30-6(b), 30-152, and 30-153. A ground sign having a horizontal dimension greater than its vertical dimension.~~

~~*Motion picture sign.* A sign capable of displaying moving pictures or images in conjunction with an outdoor advertising structure, accessory sign, or advertising statuary visible from any public street or sidewalk. See § 30-5.~~

~~*Multiple-occupancy complex.* A parcel of property under one ownership or singular control, or developed as a unified or coordinated project, with a building or buildings housing more than five occupants conducting a business operation of any kind.~~

~~*Nameplate.* A non-illuminated identification sign giving only the name, address, and/or occupation of an occupant or group of occupants. See §§ 30-6(a) and 30-153. See identification sign.~~

~~*Neon sign.* A sign with tubing that is internally illuminated by neon or other electrically charged gas.~~

~~*Non-conforming sign.* A sign which was validly installed under laws or ordinances in effect at the time of its installation, but which is in conflict with the provisions of this chapter. the Fort Myers Beach sign code.~~

~~*Off-premises sign.* Any sign normally used for promoting a business, individual, products, or service available somewhere on the premises other than the premises where the sign is located. See § 30-5.~~

~~*Pennant.* Any flag-like piece of cloth, plastic, or paper attached to any staff, cord, building, or other structure at only one or two edges with the remainder hanging loosely. See § 30-5.~~

Plane. Any surface capable of carrying items of information, such as a rectangle, square, triangle, circle, or sphere; or any area enclosed by an imaginary line describing a rectangle, square, triangle, or circle, which includes freestanding letters, numbers, or symbols.

~~Pole or post sign.~~ A free-standing sign supported by an exposed structure of poles or other supports where the height of the exposed sign supports extends more than 18 inches from the ground to the bottom of the sign, made up of a single, double or multiple structure or pole, that is not a solid monument style support, and is in excess of 2 feet in height. A free-standing sign that meets this chapter's requirements for a monument sign is not considered to be a pole sign. See § 30-5.

Political and non-commercial temporary signs. Any sign designed for the purpose of supporting or opposing a candidate, proposition, or other measure at an election or for any other noncommercial expression not related to the advertisement of any product or service or the identification of any business. See §§ 30-5 and 30-151.

Portable sign. Any movable sign not permanently attached to the ground or a building (except for sandwich signs). Examples of portable signs include trailer signs, beacon lights, balloon signs, and vehicles whose primary purpose is advertising. See § 30-5. For purposes of this code, sandwich signs are not considered portable signs and are regulated separately (see § 30-6(a)).

Posted property sign. Signs used to indicate “no trespassing,” “beware of dog,” “no dumping,” “towing,” and other similar warnings. See § 30-6(a).

Premises. Any property owned, leased, or controlled by the person actively engaged in business and so connected with the business as to form a contiguous component or integral part of it, or owned, leased, or controlled by a person for living accommodations.

Projecting sign. A sign which projects more than 18 inches above, below, or outward from, and is supported by, a wall, or parapet, or ceiling of a building, with the display surface of the sign in a plane perpendicular to or approximately perpendicular to the wall. See §§ 30-6(b) and 30-153.

Public body. Any government or governmental agency of the United States, the state, the county, or the Town of Fort Myers Beach.

Real estate sign. Any non-permanent sign pertaining to the sale, exchange, lease, rental, or availability of land, buildings, condominium and similar units, or apartments. See §§ 30-6(a), 30-56, and 30-151. Such signs may include building name and address, price and amenities, identity of seller or broker, and similar information.

Roof sign. Any sign erected upon a roof, parapet or roof-mounted equipment. See § 30-5. structure and extending above a roof, parapet or roof-mounted equipment structure of building or structure. Signs placed flat against the steep slope of a mansard roof will not be considered roof signs.

Sandwich sign. An easily moveable sign not attached to the ground that is supported by its own frame which generally forms the cross-sectional shape of an A. For purposes of this code, sandwich signs are not considered portable signs and are regulated separately. See § 30-6(a) and 30-153. A sandwich sign, or “A” frame sign, single or double-faced, which are portable and readily movable from place to place. No more than 6 square feet per side; no more than one per business location.

Sign. Any name, figure, character, outline, display, announcement, or device, or structure supporting the same, or any other device of similar nature designed to attract attention outdoors, and shall include all parts, portions, units, and materials composing the same, together with the frame, background, and supports or anchoring thereof.

Sign face. An exterior display surface of a sign including non-structural trim exclusive of the supporting structure.

Site. All the contiguous ground area legally assembled into one development location.

Snipe sign. A sign of any material, including paper, cardboard, wood, and metal, when tacked, nailed, or attached in any way to trees, telephone poles, or other objects where such sign may or may not apply to the premises. See § 30-5.

Special event sign. Any temporary or non-permanent sign advertising or pertaining to any civic, patriotic or special event, defined as any social, commercial, or fraternal gathering for the purpose of entertaining, instructing, viewing a competition, or for any other reason that would assemble an unusual concentration of people in one location. Specifically excluded from this definition are any gatherings formed and/or sponsored by any recognized religion or religious society, of general public interest. Special events and special event signs are governed by Ordinance Nos. 98-1, 00-16, and future amendments. See § 30-6(a) and 30-151.

Special occasion sign. Temporary outdoor on-site signs that address grand openings, sale events, shopping center craft shows, carnivals, parking lot sales, annual and semi-annual promotions, or similar events. It does not include signs for special events as defined in the Special Events Ordinance (Nos. 98-1, 00-16, and future amendments). See § 30-6(a) and 30-151.

Statutory graphic. Graphics required by a law of the Town of Fort Myers Beach, the county, or the United States government.

Temporary sign. Any sign which is installed for a period not to exceed 60 days, in any consecutive 12 month period, unless otherwise limited or authorized herein. This chapter provides for six types of temporary signs: business announcement signs, construction signs, development signs, political and non-commercial signs, special event signs including banners, and special occasions signs. See § 30-151.

Town. The incorporated areas within the Town of Fort Myers Beach:

Under-canopy or Under-marquee sign. A sign suspended below the ceiling of a canopy or marquee:

Upper level sign. Any sign mounted on a building that is placed in whole or in part between thirty (30) inches above the second floor line and the top of a parapet or roof line:

Vehicle sign. Any sign permanently or temporarily attached to or placed on a vehicle, including a motor vehicle, boat, trailer, or bicycle or human powered vehicle. See §§ 30-5 and 30-76.

Visibility triangle. A triangular-shaped portion of land established at street intersections or street and driveway intersections in which nothing is erected; placed, planted or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection:

Wall sign. Any sign attached to or painted on the wall of a building or structure and extending no more than 18 inches outward from the wall in a plane parallel or approximately parallel to the plane of said wall. See § 30-6(b), 30-91, and 30-153.

Welcome sign. A monument sign erected by or on behalf of a governmental organization welcoming visitors to the Town of Fort Myers Beach (see § 30-6(b)).

Window sign. Any sign viewable through and/or affixed in any manner to a window or exterior glass door such that it is viewable from the exterior, including signs located inside a building but visible primarily from the outside of the building. See § 30-5, 30-6(a), and 30-153.

(c) No lighting is authorized by this chapter that is otherwise prohibited in the sea turtle lighting restrictions in ch. 14. [this subject is addressed by §§ 30-93(c) and 30-94(d)]

Cross-reference--Definitions and rules of construction generally, 1-2.

Sec. 30-3. Reserved.

Sec. 30-4.3. Applicability of chapter.

(a) Ordinance 96-20 adopted the Fort Myers Beach core area overlay zoning district. Certain signage is addressed at §§ 34-1143(e) and 34-1145(g) and with greater specificity within the design guidelines for the core area adopted as section 1 of the administrative code. This chapter is to be read in coordination with the rules and regulations which govern the Fort Myers Beach overlay zoning district.

(a) (b) **Generally.** Except as otherwise provided in this chapter, it shall be unlawful for any person to erect, construct, enlarge, move, or convert any sign in the Town of Fort Myers Beach, or cause such work to be done, without first obtaining a sign

permit for each such sign from the building official as required by this chapter.

(b) ~~(c)~~ **Exceptions.**

- (1) This chapter shall not apply to any sign erected by the federal, state, or Town of Fort Myers Beach government or to the placement of temporary signs up to 8 square feet within a right-of-way for purposes of business identification or access location, when necessitated by road construction and when authorized by the county or town.
- (2) The following operations shall not be considered as creating a sign insofar as requiring the issuance of a sign permit, but such signs which are subject to the following operations must be in conformance with all other building, sign, structural, and electrical codes and regulations of the Town of Fort Myers Beach:
 - a. *Change of copy.* Changing of the advertising copy of a message on an existing approved changeable copy signs; ~~whether electrical, illuminated, electronic changing message center or non-illuminated message,~~ which are specifically designed for the use of replaceable copy, e.g., reader boards with changeable letters. ~~A change of copy for a billboard shall not require a permit.~~
 - b. *Maintenance.* Painting, repainting, cleaning, or other normal maintenance and repair of a sign not involving change of copy, structural, or electrical changes.
 - c. *Window displays.* Changes in the content of show window displays, provided all such displays are within the building.

Sec. 30-5. 4 Prohibited signs.

No commercial advertising signs by whatever name designated, shall be erected in the town of Fort Myers Beach, except those expressly authorized by the provisions of this chapter. The following specific types of signs are expressly prohibited, but this enumeration shall not be construed to limit the general prohibition set forth in this subsection:

- (1) ~~**On-site signs and off-site**~~ **Any signs which are not designed, located, constructed, or maintained in accordance with the provisions of this chapter,** or which do not meet the requirements of all applicable Town of Fort Myers Beach, state, and federal codes.
- (2) **Lights and signs that resemble any traffic control device,** official traffic control signs or emergency vehicle markings.
- (3) **Signs and other advertising matter as regulated by this chapter at the intersection of any street right-of-way** in such a manner as to obstruct free and clear vision, or at any location where, by reason of the position, shape, or color, the sign may interfere with or obstruct the view of any authorized traffic sign, signal, or device; or which make use of the word "stop," "look," "drive-in," "danger," or any other word, phrase, symbol, or character in such a manner as to interfere with, mislead, or confuse vehicular traffic.
- (4) **Abandoned signs.**
- (5) ~~**Animated signs.**~~ ~~Animated signs,~~ except those displaying only cycling time or temperature.
- (6) **Back-lit awnings.** However, any business with an existing back-lit awning as of December 31, 2004, may continue to use that awning and may place or replace signage on that awning provided it otherwise conforms to this code. This right shall end if the business is discontinued or moved to a different location, or if the building is rebuilt or substantially improved (see § 34-992). ~~Signs which visible smoke, vapor, particles or odor, or which produce noise or sounds capable of being heard, even though the sounds produced are not understandable sounds.~~
- (7) **Balloons or balloon signs.**
- (8) **Banners, pennants, or other flying paraphernalia,** except:

- a. an official federal state, county, or Town of Fort Myers Beach flag, ~~or~~
- b. one symbolic flag not to exceed 15 square feet in area for each institution or business, ~~except~~
- c. holiday decorations and (see § 30-6(a).
- d. banners of special events (see § 30-151).
- (9) ~~(10) **Billboards.** *Bench signs*, except as permitted in § 30-5(a)(1) of this code.~~
- (10) **Canopy signs.**
- (11) **Emitting signs.** *Changing sign (automatic): off-site and on-site.*
- (12) **Figure-structured signs** as defined in this chapter.
- (13) **Motion picture signs.** *mechanisms* in conjunction with any outdoor advertising structure, accessory sign or advertising statuary used in such a manner as to permit or allow the images to be visible from any public street or sidewalk.
- (14) **Vehicle signs.** The parking of advertising vehicles is prohibited as more fully described in § 30-76. This prohibition is not intended to apply to standard advertising or identification practices where such signs or advertising devices are painted on or permanently attached to a business or commercial vehicle.
- (15) **Off-premises signs.**
- (16) **Pole signs.**
- (17) **Portable signs** (except as allowed in § 30-65(a).
- (18) **Reserved.** *Projecting signs* (except as allowed in DOWNTOWN zoning district, § 34-998).
- (19) **Roof signs.** (except as allowed in DOWNTOWN zoning district, § 34-998).
- (20) **Signs with any lighting or control mechanism** which causes radio or television or other communication interference.
- (21) **Signs erected, constructed, or maintained so as to obstruct or be attached to any fire-fighting equipment** or any window, door, or opening used as a means of ingress or egress or for fire-fighting purposes, or placed so as to interfere with any opening required for proper light and ventilation.
- (22) **Signs, except “posted property” signs, which are erected or maintained upon trees** or painted or drawn upon ~~rocks or~~ other natural features.
- (23) **Any Signs which are is placed on any curb, sidewalk, post, pole, electrolier, hydrant,**

bridge, tree, or other surface located on public property or over or across any street or public street except as may otherwise expressly be authorized by this chapter.

- (24) **Snipe signs.**
- (25) **Unshielded illuminated devices** that produce glare or are a hazard or a nuisance to motorists or occupants of adjacent properties.
- (26) **Window signs** which identify or advertise activities, services, goods, or products available within the building, and which collectively cover more than 30 per-cent of the window glass surface area.
- (27) **No commercial signage is allowed on inland waterways except for directional signs** (see § 30-6(a)).
- (28) **Upper level signs.**

Sec. 30-6.5. Permitted Allowable signs.

Permitted Allowable signs are classified into two categories: signs not requiring a sign permit and signs that do require a sign permit.

(a) **Signs not requiring a sign permit:**

- (1) **Bench signs**, limited to existing signs, as of May 19, 2003, which are located at public transit stops, within public beach accesses, and all other existing bench signs sponsored by non-profit, charitable organizations. Signage may not exceed a 2-foot by 4½-foot sponsorship plaque. Bench signs located on property zoned commercial, placed a minimum of 25 feet from public right-of-way, and whose advertisement is not visible from a public right-of way are also permitted. All other bench signs are prohibited.
- (2) **Awning signs**. Awning signs consisting of one line of letters, which are painted, placed or installed upon the hanging border, or only, of any awning legally permitted, erected and maintained in accordance with the Town of Fort Myers Beach laws. An identification maintained in accordance with the Town of Fort Myers Beach laws: an identification emblem, insignia, initial, or other feature not exceeding an area of eight square feet may be painted, placed, or installed elsewhere on any awning, provided that any sign emblem, insignia or other such similar item shall comply with other provisions of this chapter. Larger signs on awnings are also permitted if they meet this chapter's requirements for projecting signs; see § 30-153.
- () **Building numbers**. Posted building numbers must be between 3 and 8 inches high for detached dwellings and for individual businesses, institutional, and multifamily buildings. Numbers on buildings that are set back more than 50 feet from the street must be between 8 and 18 inches high. If the building number is prominently displayed on an identification sign for a multiple occupancy complex, the number need not be repeated for individual businesses within that complex. See also § 6-11 of this code.
- (3) **Business affiliation signs**. Signs displayed by businesses, upon the premises, denoting professional and trade associations with which the business is affiliated, required requiring statutory signs, and other signs pertaining to public safety and law

- enforcement provided such graphics do not contain lettering more than two inches high.
- (4) **Business information signs**. Business information signs provided that such signs are posted on the entrance doors or within a window.
- (5) **Flags or insignias of governmental or nonprofit organizations**. Flags or insignias of a governmental, religious, charitable, or fraternal organization, except when displayed in connection with a commercial promotion.
- (6) **Garage sale signs**. Garage sale signs, provided they are erected not more than 24 hours prior to the sale and are removed within 72 hours of the time they were erected.
- (7) **Governmental and public safety signs**. Governmental signs for control of traffic and other regulatory purposes, street signs, danger signs, railroad crossing signs, signs of public service companies indicating danger, and aids to service or safety which are erected by or on the order of a public official in the performance of his public duty.
- (8) **Holiday decorations**. Signs of a primarily decorative nature, clearly incidental and customary and commonly associated with any national, local, or religious, provided that such signs shall be displayed for a period of not more than 60 consecutive days and such signs shall not be displayed for more than 60 days in any one year. Such signs may be of any type, number, area, height, illumination or animation and shall be not otherwise prohibited by § 30-5, provided that:
 - a. the decorations contain no advertising other than the name of the business,
 - b. the decorations are set back ten feet from all boundary lines of the lot, provided that and
 - c. clear visibility shall be maintained on a corner lot in accordance with § 30-93.
- (9) **Instructional signs** or symbols located on and pertaining to a parcel of private property, not to exceed four square feet in area per sign.
- (10) **Interior signs**. Signs located within the interior of any building or stadium, or within the inner or outer lobby, court, or entrance of any theater. This does not, however, exempt such signs from the structural, electrical, or material specifications as set out in this ~~and~~

development code and the Florida Building Code.

- (11) **Legal notices.** Legal notices and official instruments.
- (12) **Memorial signs or tablets.** Memorial signs or tablets, names of buildings, and date of erection when cut into any masonry surface or when constructed of bronze or other incombustible materials.
- (13) **Nameplates.** Any sign not exceeding 1½ square feet in area per sign and not exceeding 2 in number per lot, except that special permission may be obtained from the building official for additional signs under proven special circumstances. Such signs shall not be illuminated, and they shall not project over any public right-of-way.
- () **Political and non-commercial temporary signs.** See § 30-151.
- (14) **Posted property signs.** Posted property signs, not to exceed 1½ square feet in area per sign and not exceeding 2 in number per lot, except that special permission may be obtained from the building official for additional signs under proven special circumstances. Such signs shall not be illuminated, and they shall not project over any public right-of-way.
- (15) **Reserved. Promotional signs.** Promotional signs, not exceeding four square feet in area, provided that such signs are posted only during such drive or no more than 30 days before the event and are removed no more than 2 days after the event. See § 30-151(e).
- (16) **Public information signs.** Any sign used for public information or direction erected either by or at the direction of a public body.
- (17) **Real estate, open house, and model signs.** Real estate, open house, and model signs, subject to § 30-151(f).
- (18) **Sandwich Signs.** Sandwich signs may not be used after May 31, 2005.
 - a. **In General.** Sandwich signs are permitted within the outer perimeter of the DOWNTOWN zoning district as shown on Figure 34-6 of this code; whether the subject property is classified in the DOWNTOWN zone or in a Commercial Planned Development zone, and all other commercial zoning districts, despite the general prohibition

in § 30-4 of this chapter of portable signs which are readily movable from place to place:

- 1. A business may place a single- or double-faced sandwich sign on the same premises, or when there is no location available on premises due to the street setback of the building, the sign may be placed on a sidewalk directly in front of the premises, provided it does not unreasonably obstruct or interfere with use of the sidewalk or access to parking spaces.
 - 2. Sandwich signs must be placed indoors after business hours, may not be illuminated, and may not exceed 24 inches in width and a total of 6 square feet per side.
 - 3. Sandwich signs must be professionally made and maintained in an attractive manner. Sandwich signs which are structurally unstable or deteriorating are not permitted.
 - 4. Multiple occupancy complexes with less than 10 occupants may display no more than 2 sandwich signs at one time, and multiple occupancy complexes with more than 10 occupants may display up to 3 sandwich signs at one time.
 - 5. This entire subsection has the potential for substantial adverse impact upon the community and shall expire on May 31, 2005, if not modified or readopted prior to that date.
- b. **Pre-existing off-premises signs:** Sandwich signs for the Heavenly Biscuit restaurant (located on the corner of Mango Street and Estero Boulevard); and SeaGrape Plaza shopping center; shall be considered legal non-conforming:
- 1. These signs shall maintain their legal non-conforming status with the continued permission of the property owner where the sign is located or until such time as they loose status in accordance with § 30-56(c) of this chapter.

~~2. This entire subsection has the potential for substantial adverse impact upon the community and shall expire on May 31, 2005, if not modified or readopted prior to that date.~~

- (19) **Signs incorporated on machinery or equipment.** Signs incorporated on machinery or equipment at the manufacturer's or distributor's level, which identify or advertise only the product or service dispensed by the machine or equipment, such as signs customarily affixed to vending machines, newspaper racks, telephone booths, and gasoline pumps.
- (20) **Special event signs.** See § 30-151.
- (21) **Special occasion signs.** See § 30-151.
- (22) ~~(20)~~ **Symbols or insignia of religious orders,** historical agencies, or identification emblems of religious orders or historical agencies, provided that no such symbol, plaque or identification emblem shall exceed 16 square feet in area.
- (23) ~~(21)~~ **Warning signs.** Signs warning the public of the existence of danger, but containing no advertising material, of a size as may be necessary, to be removed upon subsidence of danger.
- (24) ~~(22)~~ **Waterway signs.** Directional signs along inland waterways.
- (25) ~~(23)~~ **Window signs.** Interior window signs which identify or advertise activities, services, goods, or products available within the building.

(b) **Signs requiring a sign permit.** No sign that meets or exceeds one or more of the following criteria shall be erected prior to issuance of a sign permit in accordance with § 30-55.

- (1) **Business announcement signs,** see § 30-151(a).
- (2) **Construction signs,** see § 30-151(b).
- (3) **Development signs,** see § 30-151(c).
- (4) **Directional signs (on-site only),** § 30-152(d).
- (5) **Identification signs (residential and commercial), whether wall signs, monument signs, or projecting signs,** see §§ 30-152 and 30-153.
- (6) **Menu display boxes.** One menu display box may be permitted outdoors adjacent to a public entrance of an establishment that serves prepared food to the public. Menu

display boxes cannot exceed 4 square feet in area and 4 inches deep, and menu lettering cannot exceed 2 inches in height.

- (7) **Welcome signs.** One welcome sign may be permitted provided it does not exceed 60 square feet in area and it meets the requirements of § 30-153(d)(1), (2), and (4).
- (8) ~~(6)~~ **Any illuminated sign** if the source of the illumination has not been previously approved.
- (9) ~~(7)~~ **Any sign not specifically exempted** from requiring a sign permit as delineated under § 30-65(a).

Sec. 30-7.6: Parking of advertising vehicles.

(a) No person shall park any vehicle, trailer, or boat on a public right-of-way, public beach, or public property so as to be clearly visible from a public right-of-way, which has attached thereto or located thereon any sign or advertising device for the primary purpose of providing advertisement of products or directing people to a business or activity located on the same or nearby property or any other premises.

(b) This section is not intended to prohibit any form of public vehicular signage such as a sign attached to a bus. Neither shall this section prohibit a sign lettered or attached to a motor vehicle in such a manner as to primarily identify the vehicle with the business it serves and which is less than 6 square feet of total surface area. This section shall not be interpreted as prohibiting company names which are customarily and normally on interstate or local delivery trucks.

(c) The parking of vehicles or the use of any other device or contrivance visible from a public or private street or right-of-way for advertising or commercial purposes, shall be deemed to be prohibited by this section.

Secs. 30-87-30-50. Reserved.

Sec. 30-51. Violation of chapter; penalty.

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

~~Penalties may be assessed against any owner, agent, lessee, tenant, or contractor, or any other person using the land, building, or premises where such violation has been committed or shall exist; any person who knowingly commits, takes part in or assists in such violation; and any person who maintains any sign or sign structure in violation of this chapter or in dangerous or defective condition. shall be subject to the following penalties:~~

~~(1) Criminal penalties, upon conviction:~~

~~a. A fine not to exceed \$500.00 per day.~~

~~(2) Civil penalties:~~

~~a. The town shall be entitled to injunctive relief to enjoin and restrain any person from violating the provisions of this chapter, and~~

~~b. Prosecution before the hearing examiner pursuant to a current executed interlocal agreement between the Town of Fort Myers Beach and Lee County.~~

~~c. Any other relief available pursuant to law.~~

~~(b) In addition to the criminal penalties and enforcement procedures provided in subsection (a) of this section, the violation of any of the regulations, restrictions and limitations promulgated under the provisions of this chapter may be restricted by injunction, including a mandatory injunction, and otherwise abated in any manner provided by law, and each suit or action may be instituted and maintained by the Council of the Town of Fort Myers Beach or by any citizen of the Town of Fort Myers Beach or by any person affected by the violation of these regulations, restrictions or limitations. No sign or sign structure shall hereafter be erected, constructed, reconstructed, altered or relocated except in conformity with the provisions of this chapter.~~

~~(c) No person shall erect on any premises owned or controlled by him any sign which does not comply with the provisions of this chapter.~~

~~(d) No person shall erect on any premises owned or controlled by him any sign which is in a dangerous or defective condition. Any such sign~~

~~shall be removed or repaired by the owner of the sign or the owner of the premises, or as otherwise provided for in this chapter.~~

Sec. 30-52. Reserved.

Sec. 30-53. Powers and duties of town manager, ~~building official~~.

(a) *Generally.* ~~The town manager ~~building official~~ is hereby authorized and directed to administer and enforce the regulations and procedures and set forth in this chapter. The ~~building official~~ is further empowered to delegate the duties and powers granted to and imposed upon him under this chapter.~~

(b) *Specific powers and duties.*

(1) **Issuance or denial of permits and certificates.**

a. It shall be the duty of the town manager, ~~building official~~, upon receipt of a completed application for a sign permit, to examine such plans and specifications and other data and, if the proposed structure is in compliance with the requirements of this section and all other applicable provisions of this chapter, to issue to the applicant a written permit evidencing the applicant's compliance therewith. Issuance of the permit shall in no way prevent the town manager ~~building official~~ from later declaring the sign to be illegal if, upon further review of the information submitted with the application or of newly acquired information, the sign is found not to comply with the requirements of this chapter.

b. No sign permit or certificate of compliance shall be issued by the ~~building official~~ except in compliance with this chapter and any other applicable ordinances and laws, decisions of the zoning board, board of adjustments, construction board, or Town of Fort Myers Beach council, or court decisions.

(2) **Revocation of permits and certificates.** The town manager ~~building official~~ may revoke a sign permit or certificate of compliance in those cases where an administrative determination has been duly made that false statements or misrepresentations existed as to

- material facts in the application or plans upon which the permit or approval was based.
- (3) **Suspension of permits and certificates.** The ~~town manager~~ building official may suspend a sign permit or certificate of compliance where an administrative determination has been duly made that an error or omission on the part of either the permit applicant or a government agency existed in the issuance of the permit or certificate. A new permit or certificate shall be issued in place of the incorrect permit or certificate after correction of the error or omission.
 - (4) **Cease and desist orders.** The ~~town manager~~ building official shall have the authority to issue cease and desist orders in the form of written official notices given to any person.
 - (5) **Complaints.**
 - a. Complaints on any violations of this chapter shall be filed with the ~~town manager~~ building official.
 - b. Upon inspection, where it is found that any sign or sign structure is in violation of this chapter, the ~~town manager~~ building official should take the appropriate action as set forth in this code.

Sec. 30-54. Variances.

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

Sec. 30-55. Permits; inspections.

- (a) **Sign permit required; modifications.**
 - (1) Except as otherwise provided for in this chapter, it shall be unlawful for any person to erect, construct, replace, enlarge, move, or convert any sign in the Town of Fort Myers Beach, or cause such work to be done, without first obtaining a sign permit for each sign ~~from the building officials~~.
 - (2) In addition to any other permit required by this code, a sign permit shall be obtained prior to placing, changing, altering, or displaying any sign unless specifically exempted by this code. No sign permit shall be required where the only work to be performed is the repair, maintenance, or

maintenance of a lawful non-conforming sign, or the replacement or repair of a destroyed sign except when such sign is required to be removed by this code.

- (3) When a sign permit has been issued, it shall be unlawful to change, modify, alter, or otherwise deviate from the terms or conditions of the permit without prior approval of the ~~town manager~~ building official. A written record of such approval shall be entered upon the original permit application and maintained in the files of the ~~town manager~~ building official. All such approvals shall be consistent with the terms of this chapter.

(b) **Application for sign permit.** In order to obtain a permit to erect, alter, or relocate any sign under the provisions of this chapter, an applicant therefore shall submit to the ~~town~~ building official a sign permit application, which shall include:

- (1) A completed application form containing but not limited to:
 - a. The name, address, and telephone number of the applicant.
 - b. The name, address, and telephone number of the person constructing the sign, as well as the name, address, and telephone number of the owner of the sign.
 - c. ~~For off-site signs only, the name, address, telephone number and signature of the owner of the premises granting permission for the construction, operation, maintenance or displaying of the sign structure, including:~~
 1. ~~Proof of ownership of the property upon which the sign is to be erected; on the subject parcel; or~~
 2. ~~A copy of the executed lease or agreement permitting the sign to be erected on the subject parcel; or~~
 3. ~~A signed statement from the property owner of the subject property granting permission for the erection of the sign and recognizing that a lien may be filed against the subject property if the sign is required to be removed for violation of this chapter:~~
 - d. Information as to the type of sign to be erected, e.g., ground-mounted, monument, projecting, or wall-sign;

- illuminated or non-illuminated;
temporary or permanent.
- d. ~~e.~~ The approximate value of the sign to be installed, including the installation cost, some representation as to design and copy with regard to the sign requested.
- (2) A *site location plan* including the following:
 - a. Location by street number and legal description (tract, block, and lot) of the building, structure, or lot to which or upon which the sign is to be installed.
 - b. A fully dimensioned plot plan, to scale, indicating the location of the sign relative to property lines, rights-of-way, streets, easements, sidewalks, and other buildings or structures on the premises, as well as the location, size, and type of any other existing signs whose construction requires a sign permit, when such signs are on the same premises.
 - c. A sea turtle lighting plan is required for all new lighted signs that are visible from the beach, including signs that are within buildings.
 - d. A landscape plan is required for sign installations that include landscaping.
 - (3) *Bond or other security for certain type signs.* Town of Fort Myers Beach shall adopt a bond or other security schedule for certain type signs requiring a bond or other security as specified in this chapter. Such signs include, but are not limited to certain temporary signs and such others as the Town Council deems necessary. If the signs are not removed within a specified time period, the signs will be removed by the Town of Fort Myers Beach and the bond will be forfeited.
 - (4) *Application fee.* Applications for a permit to erect, construct, alter, or extend a sign or sign structure shall be accompanied by a fee in the amount to be established by the town.
 - (5) Such other information as the town manager building official may require which is necessary to secure full compliance with this chapter, the Florida Building Code and any other applicable ordinance.
 - (6) A *drawing to scale* showing the design of the sign, including dimensions, sign size, method of attachment, and source of illumination, and showing the relationship to any building or structure to which it is or is proposed to be installed or affixed, or to which it relates.
 - (7) Plans indicating the scope and structural detail of the work to be done, including details of all connections, supports, and footings and materials to be used.
 - (8) Where determined to be necessary, a copy of stress sheets and calculations indicating that the sign is properly designed for dead load and wind pressure in any direction, if required by the town manager building official.
 - (9) Where determined to be necessary, a listing of all materials to be utilized in the construction of the sign, or, in the alternative, a statement that all materials are in compliance with the Florida Building Code.
 - (10) ~~A sea turtle lighting plan is required for all new lighted signs that are visible from the beach.~~
 - (11) If applicable, an application, and required information for such application, for an electric permit for all electric signs, if the sign is to be illuminated. Electrical work must be UL-approved or installed by a licensed electrician.
 - (12) *Sign contractor's license.* Certain types of signs are required to be installed or erected only by a licensed contractor. No person shall perform any work or service in connection with the erection, construction, enlargement, alteration, repair, moving, improvement, maintenance, conversion, or manufacture of any such sign in the Town of Fort Myers Beach unless such person shall first have obtained a contractor's license from in accordance with §§ 6-231-237, the building official and paid the license fees provided by the Town of Fort Myers Beach, ~~or shall be represented by a duly licensed agent or subcontractor.~~ All persons engaged in the business of installing or maintaining signs involving, in whole or part, the erection, alteration, relocation, or maintenance of a sign or other sign work in or over or immediately adjacent to a public right-of-way or public property is used or encroached upon by the sign installer shall agree to hold harmless and indemnify the Town of Fort Myers Beach and its officers, agents, and employees from any and all claims of negligence resulting from the erection, alteration, relocation, or maintenance of a sign or other sign work

insofar as this chapter has not specifically directed the placement of a sign.

- (13) *Expiration of sign permit.* A sign permit shall expire and become null and void six months from the date of issuance, except that it may be extended for good cause by the ~~town manager, building official.~~
- (14) *Inspections.* All signs for which a permit is required by this chapter are subject to inspection ~~by the building official.~~ Failure to obtain a final satisfactory inspection within the permit period or any renewal shall render the permit invalid, and the applicant shall be required to reapply for a permit or remove the sign or sign or structure.
- (15) *Identification number.* New signs permitted after the effective date of this chapter (September 13, 1999) will carry a sign permit number on the right corner of the permitted sign. The town will begin a process of photographing all signs within the town by digital camera and such record will be kept in town hall.

Sec. 30-56. Non-conforming signs.

For further clarification, see land development code §§ 34-3201 through 34-3277.

(a) *Status.* Every sign, as of the effective date of the chapter (September 13, 1999) which is a permitted legally existing sign shall be deemed a legal non-conforming sign. A permitted sign means a sign that was constructed or is in place with a valid permit from the Town of Fort Myers Beach. All non-conforming signs shall be subject to the provisions of this section. All existing signs which are not legal non-conforming signs must comply with the terms of this chapter.

- (1) A non-conforming sign may not be enlarged or altered in a way which increases its nonconformity.
- (2) Nothing in this section shall relieve the owner or user of a legal non-conforming sign or owner of the property on which the legal non-conforming sign is located from the provisions of this chapter regarding safety, maintenance, and repair of signs. Any repair or refurbishing of a sign that exceeds 50 percent of the replacement value of the sign in its preexisting state shall be considered as an act of placing a new sign and not an act of customary maintenance. It shall be the

responsibility of the permittee to provide the ~~town division of community development~~ with adequate proof of the cost of such work in the form of an itemized statement of the direct repair cost whenever such information is requested ~~by the division.~~

- (3) If any non-conforming sign is destroyed to an extent exceeding 50 percent or more of its replacement value at the time of destruction, the sign shall not be replaced or repaired, in part or full, except upon full compliance with this chapter.

(b) *Designation of historically significant and/or landmark signs.* Pursuant to the Fort Myers Beach Comprehensive Plan, the town’s vision for preserving its history is set out in chapter 13. This historic preservation element has two major goals. The first is to preserve “the best of the old” as the community evolves and redevelops over time. The second goal is to share the legacy left by previous residents with today’s visitors and the broader community and to do so in a way that preserves the local culture and environment and enriches visitors’ experiences. The local planning agency is designated to serve as the historic preservation board by this code.

- (1) A sign may be nominated for designation as historically significant or having landmark status to the local planning agency.
- (2) A nomination letter would be prepared documenting the historical background of the sign and listing reasons for possible landmark status. The historic preservation element sets out historic and archaeological criteria that should be incorporated into a nomination letter.
- (3) The local planning agency will hold a public hearing on any nomination requests received and will use the historic preservation element as a guideline for approving or denying such requests.
- (4) The town council will serve as the appeal board for signs that are denied historical and/or landmark status
- (5) A sign that is designated as historical or having landmark status will receive a legal non-conforming status for as long as the sign remains. If the sign is destroyed in any way, it may be re-constructed to its legal non-conforming historical and/or landmark status. Similarly, if the underlying business is sold, or “copy” or “use” is changed, the sign

continues to hold its legal non-conforming designation and remains as a historical or landmark designated sign.

(c) **Loss of legal nonconformity.**

- (1) A legal non-conforming sign shall become an illegal sign which must comply with this chapter if:
 - a. More than 50 percent of the sign is removed or unassembled for a period of more than six months.
 - b. The sign is altered or relocated in any manner which increases its nonconformity or causes it to be less in compliance with the provisions of this chapter.
 - c. Any change of use or change of ownership of a sign loses legal non-conformity and must comply with current regulations.
 - d. Repair or refurbishing exceeds 50 percent of the value of the sign in its preexisting state.
 - e. The sign is replaced.
- (2) When a sign face remains blank, which as defined as void of advertising for a period of 12 months it loses its non-conforming status and must be treated as a sign which must comply with all the requirements of this chapter. Signs displaying an “available for lease” message or similar message and partially obliterating signs which do not identify a particular product, service, or facility are considered to be blank signs.
- (2) A non-conforming sign that has lost its legal non-conforming status shall be immediately brought into compliance with this chapter, or the sign shall be removed.
- (3) The existence of an illegal sign or a legal non-conforming sign does not constitute a hardship warranting the issuance of a variance from the provisions of this chapter.

(d) **Time for compliance.** All signs shall be brought into compliance with the standards of this section according to the following schedule which follows:

- (1) **Real estate signs** shall be removed or made lawful hereunder within 24 months after the effective date of this chapter (September 13, 1999).
 - a. The town finds that in view of the inexpensive nature of these signs and the

administrative burden which would be imposed by elaborate procedural prerequisites prior to removal, any procedure other than summary removal of these signs when unlawfully erected and maintained would defeat the purpose of regulating such signs. Therefore, the town manager building official is hereby authorized summarily to remove such signs when unlawfully erected and maintained, subject to the provisions contained in subsection (3) of this section.

- b. After summary removal of a sign pursuant to this section, the town manager building official shall notify, either in person or by first class postage, prepaid, the occupant of the property from which the sign was removed, and if the sign identified a party other than the occupant of the property, the party so identified. The notice shall advise that the sign has been removed, and shall state that the sign may be retrieved within 30 days of the date of the notice and that if the sign is not retrieved within 30 days it will be disposed of by the town. If the sign is removed from public property, the party, if any identified on the sign shall be notified; if no party is identified on the sign, then no notice prior to disposition is required. The town shall dispose of all unclaimed signs after the expiration of the 30-day period.

- (2) **Signs damaged in a natural disaster.** Signs damaged in a natural disaster may be repaired or replaced and may remain in place until September 13, 2007, if the applicant signs an affidavit acceptable to the town acknowledging that the sign must be removed or brought into conformance with this chapter prior to that date. In accordance with the application and permit provisions of § 30-55 of this chapter, temporary sign permits conforming to the standards in § 30-151(a)(2) may be issued for properties associated with such damaged signs for one period not to exceed 180 calendar days. One additional temporary sign permit may be issued for an additional period not to exceed 180 days on a showing of continued hardship.
- (3) ~~(2)~~ **Other non-conforming signs.** Any other non-conforming sign shall be brought in

compliance with this chapter upon any alteration (but not routine maintenance) of the sign, or 8 years after the effective date of this chapter (September 13, 1999), whichever comes first.

(4) (3) Other unlawful signs. Signs which are or have been erected or maintained unlawfully but do not fall under the provisions set forth in subsection (1) of this section shall be subject to the following procedures:

- a. The town manager building official shall prepare a notice which shall describe the sign and specify the violation involved, and which shall state that, if the sign is not removed or the violation is not corrected within 15 days, the sign shall be removed in accordance with the provisions of this section.
- b. All notices ~~mailed by the building official~~ shall be sent by certified mail, return receipt requested. ~~Any time periods provided in this section shall be deemed to commence on the date of the receipt requested.~~ Any time periods provided in this section shall be deemed to commence on the date of receipt of the certified mail.
- c. The notice shall be mailed to the owner of the property on which the sign is located as shown on the last equalized assessment roll. If the owner of the sign and the occupant of the property are known, or with reasonable care should be known, the notice shall be mailed to or delivered to the owner of the sign and the occupant of the property.
- d. Failing determination of the sign owner or user or owner of the property on which the sign is located, the notice may be affixed in a conspicuous place to the sign or to the business premises with which the sign is associated. The town manager building official shall require new sign permits to be issued for each existing sign so classified ~~and shall be attached to the Town of Fort Myers Beach's copy of the permit application.~~
- e. Any person having an interest in the sign or the property may appeal the determination of the ~~administrator~~ town manager ordering removal or compliance by filing a written notice of appeal with

the town within 15 days after the date of receiving the notice.

- f. Upon completion of the notification procedures and after the expiration of the 15-day appeal period, if no appeal has been filed, the town manager building official shall have the authority to remove or contract with a contractor to remove the unlawful sign. All costs associated with the removal of the unlawful sign shall be assessed against the property owner. Each such assessment shall be a lien against the property until paid.

(5) (4) Emergency work. When it is determined ~~by the building official~~ that a sign would cause an imminent danger to the public safety, and contact cannot be made with a sign owner or building owner, no written notice shall have to be served. In this emergency situation, the town manager building official may correct the danger, with all costs being assessed against the property owner.

(6) (5) Assessment of costs.

- a. As soon after the offending condition is corrected or removed ~~by the building official~~ and the expense thereof can finally be determined, the town manager building official shall render a statement to the property owner or permittee or person having possession or right to use, by regular United States mail, addressed to the last known address of any such persons, informing the person of the sums due the town.
- b. If such sums are not paid within 45 days, the town shall, by resolution, levy a special assessment lien in the amount of all sums due the town, plus interest on the amount at a rate of 12 percent per annum, plus all expenses which may be incurred incident to the enforcement of such lien, including any court costs or attorney's fees, until final payment of all sums have been made.
- c. Liens shall be recorded in the official records of the Town of Fort Myers Beach and shall remain in full force and effect until finally paid. The Town of Fort Myers Beach shall furnish releases of the subject upon proper satisfaction having been made. The lien may be enforced in

the manner provided by the general law of the state for the enforcement of liens or the foreclosure of mortgages.

Secs. 30-57–30-90. Reserved.

Sec. 30-91. Measurement of sign area.

(a) The sign area shall be measured from the outside edges of the sign ~~or the sign frame, whichever is greater, excluding the area of the~~ and supporting structures, ~~except where the supporting structure is a building wall, provided that the supporting structures are not used for advertising purposes and are of an equal to or less than the permitted sign area.~~ In the case of wall signs ~~that use individual letters or symbols without a border, background, or frame, or supporting structure other than the building itself,~~ the sign area shall be the sum of the areas within the perimeter of each letter or symbol in the sign. ~~Surface shall include such reasonable and proportionate space as would be required if a border or frame were used.~~

(b) When a single sign structure is used to support two or more signs, or unconnected elements of a single sign ~~other than individual letters or symbols,~~ the surface area shall comprise the square footage within the perimeter of a regular geometric form enclosing the outer edges of all the separate signs or sign elements.

(c) Where signs are installed back-to-back, one face only is considered as the sign area. If unequal in size, the larger face will be counted.

Sec. 30-92. Measurement of sign height.

The height of a sign shall be considered to be the vertical distance measured from the crown of the ~~adjacent street, road.~~

Sec. 30-93. Location.

(a) *Visibility triangle.* No sign shall be erected which would impair visibility at a street intersection or driveway entrance as described in § 34-3131 of this code.

(b) *Street setbacks.* No sign or portion of a sign shall be erected closer than 3 feet to any sidewalk or bike path or to any street right-of-way unless at least 8 feet of vertical clearance is maintained.

(c) *Signs near the beach.* Other portions of this code may affect the location or lighting of signs. For example:

- (1) Signs are permitted in the EC zoning district only if approved through the special exception process or as a deviation in the planned development zoning process (see § 6-366(b)), or where explicitly permitted by §§ 14-5 or 27-51.
- (2) A sea turtle lighting plan is required for all new lighted signs that are visible from the beach, including signs that are within buildings. Guidelines for ensuring that sea turtle nesting habitat will not be directly or indirectly illuminated are found in § 14-79.

(d) ~~(b)~~ *Clearance from high voltage power lines.* Signs shall be located in such a way that they maintain a clearance of ten feet to all overhead electrical conductors and a three foot clearance on all secondary voltage service drops.

Sec. 30-94. Construction standards; landscaping.

(a) *Generally.* All signs shall comply with the appropriate detailed provisions of the Florida Building Code relating to design, structural members, illumination, and connections. ~~Illuminated signs shall also comply with provisions of the National Electrical Code,~~ and All electrical work shall be Underwriters' Laboratories approved or be certified by an electrician licensed in accordance with article II of ch. 6 of this code. Signs shall also comply with the additional standards set forth in this section.

(b) *Structural design.*

- (1) The town manager ~~building official~~ may request wind load calculations for signs less than 24 square feet prior to issuance of ~~issuing~~ a permit.
- (2) A wall must be designed for and have sufficient strength to support any sign which is attached thereto.

(c) *Materials for monument ground signs.*

- (1) All monument signs ~~ground sign structures~~ shall be self-supporting structures erected on and permanently attached to the ground.
- (2) All wood permitted to be used, whether for new permanent signs, for replacement of existing permanent signs, or for any part thereof, shall be rot and termite resistant

through open-cell preservation methods as specified by the American Wood Preservation Association, or by any other open-cell preservation treatment approved by the Florida Building Code, Town of Fort Myers Beach building department.

(d) **Electric signs.**

- (1) All electric signs shall be certified by a licensed electrical contractor that the sign meets the standards established by the Florida Building Code, National Electric Code as adopted in § 6-191. All electric signs shall be erected and installed by a licensed sign contractor. The electrical connection to a power source shall be performed by a licensed electrical contractor.
- (2) Artificial light used to illuminate any sign from outside the boundaries of the sign shall be screened in a manner which prevents the light source from being visible from any abutting right-of-way or adjacent property. See ch. 14 of this code for sea turtle lighting restrictions.
- (3) All externally illuminated signs must also comply with the technical standards for lighting found in § 34-1833.

(e) **Supports and braces.** Metal supports or braces shall be adequate for wind loading. All metal wire cable supports and braces and all bolts used to attach signs to brackets or brackets and signs to the supporting building or structure shall be of galvanized steel or of an equivalent corrosive resistant material. All such sign supports shall be an integral part of the sign.

(f) **Anchoring.** No sign shall be suspended by chains or other devices that will allow the sign to swing due to wind action. Signs shall be anchored to prevent any lateral movement that would cause wear on supporting members or connections.

(g) **Maximum angle for double faced signs.** Double faced signs with opposing faces having an interior angle greater than 30 degrees shall not be permitted.

~~(h) **Landscaping.**~~

- ~~(1) Approved landscaping, which includes xeriscape, shall be functional and decorative. It should be designed for minimal maintenance and capable of withstanding~~

~~vandalism. It may be of many materials, including flowers, shrubs, trees, rockwork, brickwork, or other constructional elements in an attractive combination and appropriate to the specific location. The support structure of the sign may, if properly designed, be included as part of the landscaping.~~

- ~~(2) The least dimension of the landscaped area shall be the greatest dimension of the sign, and the sign shall not extend beyond the landscaped area. The area enclosed by the sign shall be landscaped with shrubs and ground cover.~~

Sec. 30-95. Sign identification and marking.

(a) Unless specifically exempted from permit requirements of this chapter, all signs shall be photographed and filed with permit numbers in town hall. Within 1 year of the effective date of this chapter (September 13, 1999), the town will use a digital camera to record all signs within the town. In the interim, all signs permitted under this chapter will display the sign permit number issued for that sign at the right lower corner of the sign so that it is easily visible for inspection.

Sec. 30-96. Maintenance.

(a) All signs, including their supports, braces, guys, and anchors, shall be maintained so as to present a neat, clean appearance. Painted areas and sign surfaces shall be kept in good condition, and illumination, if provided, shall be maintained in safe and good working order.

(b) Weeds and grass shall be kept cut in front of, behind, underneath, and around the base of monument ground signs for a distance of ten feet, and no rubbish or debris that would constitute a fire or health hazard shall be permitted under or near such signs.

Secs. 30-97–30-150. Reserved.

Sec. 30-151. Temporary signs.

The following temporary signs are permitted in all zoning districts subject to the following regulations. It shall be unlawful to erect, cause to be erected, maintain, or cause to be maintained any temporary sign which fails to comply with the following regulations.

(a) **Business announcement signs.**

- (1) A temporary sign announcing a project to be under construction or an intended use of the premises within 60 days of erection of the sign may in the immediate future shall be permitted in accordance with the following:
 - a. One ground-mounted sign is allowed per street frontage per project. The sign shall be confined to the site of the project.
 - b. Sign area shall not exceed 16 square feet, and signs (including supports) shall not exceed 8 feet in height above the crown of any abutting street.
 - c. A sign announcing a project to be under construction or an intended use of the premises in the immediate future may include only the project name, the nature of development (e.g., professional office, ~~villas, townhouse~~ condominium, etc.), the name of the owner or agent, and one telephone number. Such sign may be posted for a 180-day period, at the end of which time continued use of the sign shall be subject to approval by the town manager. ~~building official~~. Such sign shall be removed upon issuance of a certificate of occupancy for the project.
- (2) Temporary announcement signs for a new business, or a business in a new location with no permanent signs, may be permitted up to 16 square feet in sign area ~~or the maximum permitted sign area for any one ground-mounted permanent sign, whichever is lesser~~, for a period of not more than 60 days or until installation of permanent signs, whichever occurs first. The temporary sign shall not exceed 8 feet in height. No temporary announcement sign shall be permitted if the sign would exceed either the number or size of permanent signs otherwise permitted by this chapter for the occupant or location.
- (3) Permits are required for business announcement signs (see § 30-6(b)).

(b) **Construction signs.**

- (1) One construction sign shall be permitted per construction project on each street frontage. The sign shall be erected no more than five days prior to any construction of the project shall be confined to the site of construction, and shall be removed prior to issuance of a certificate of occupancy.
- (2) Construction signs may denote the architect, engineer, contractor, subcontractor, owner, future tenant financing agency, or other persons performing services or labor or supplying materials to the premises.
- (3) Maximum size limitations for construction signs shall be as follows:
 - a. For all residences and nonresidential developments, one non-illuminated ~~wall or ground-mounted~~ sign not exceeding 16 square feet in sign area and 8 feet in height, including supports, may be erected on each street frontage.
 - b. All construction signs must be located within the property line.
 - c. Permits are required for construction signs (see § 30-6(b)).

(c) **Development signs.**

- (1) A development sign may be permitted in any residential development wherein more than 20 percent of the lots, homes, or living units remain unsold, subject to the following regulations:
 - a. One non-illuminated development sign not exceeding 16 square feet in sign area may be permitted for each street entrance into the subject subdivision or development.
 - b. The sign shall be located within the confines of the property being developed.
 - c. Permits for such signs shall be issued for one year and may be renewed annually until 20 percent or less of the total lots, homes or living units remain unsold.
- (2) One non-illuminated development sign per street frontage may be permitted in any commercially zoned district to promote the sale or rental or lease of units within the development. The maximum size shall be 16 square feet and the maximum height shall be ten feet plus 10 feet, including supports.
- (3) Permits are required for development signs (see § 30-6(b)).

(d) ***Temporary Political and non-commercial temporary signs.*** Temporary political and non-commercial signs shall only be erected in accordance with the following standards:

- (1) *Area and height.* Temporary political signs shall have a maximum sign face area of 4 square feet and if mounted on the a ground sign, a maximum height of 3 feet.
- (2) *Timing and removal.* For signs pertaining to any matter relating to an election: a period beginning 25 days prior to the election to which they relate and ending 5 days after said election.

(e) ***Special event signs. Promotional signs.*** Except as provided in § 30-65(a), ~~no signs shall be posted person, civic club or other organization shall post any sign~~ for special events ~~or promotions~~ until ~~such person, civic club or organization obtains a special events permit~~ has been obtained from the town from the building official and a bond or other security deposit acceptable to the Town of Fort Myers Beach is posted to insure the proper maintenance or removal of the sign in accordance with § 30-55(b)(3), and the following regulations.

- (1) Special event Promotional signs may be erected within 14 days prior to a proposed event and must be removed within 2 days after the event.
- (2) Special event Promotional signs shall not exceed 16 square feet in area and 8 feet in height including supports.
- (3) In addition, banners may be strung for special events if approved as part of a special events after obtaining the proper permit. ~~The~~ Banners may be placed up to two weeks before the event and must be taken down no later than one week after the event.

(f) ***Real estate signs.*** Real estate signs shall be permitted on properties where the owner is actively attempting to sell, rent, or lease such property, either personally or through an agent, as follows:

- (1) All properties for sale will be allowed one non-illuminated ground sign, perpendicular to the roadway, that is 24 inches in height and 24 inches in width. Lots may have one sign for each street frontage. Waterfront (canal, bay, lagoon, or beach) properties may have more than one additional monument sign which is 12 inches in height and 24 inches in width on water frontage visible from the water.

- (2) The sign face will have the name of the licensed real estate professional, the real estate company or other licensed entity, any required professional indicia, and a phone number and/or address. The sign face may additionally state, "For Rent" or "For Lease" or both, but such statements must be included on the 24-inch by 24-inch sign face.
- (3) No riders (such as name of agent, "sold," "sale pending," "pool," "price reduced," etc.) shall be attached.
- (4) If a property is both for sale and for rent, only one sign is allowed.
- (5) No signs may be fastened to trees.
- (6) No "goal post" supports are allowed.
- (7) *"Open house" signs.* One ground-mounted "open house" sign per property per street frontage. Sign area shall not exceed four square feet, and the sign shall be placed upon the property to be sold or leased. The sign shall be displayed only when the premises are actually available for inspection by a prospective buyer or tenant.
- (8) *"Model" signs.* New developments may place the words "Model Open" within the 16 square foot temporary construction sign permitted for the project under § 30-151**(b)**, "Construction Signs."

(g) ***Special occasion signs.*** In addition to signs permitted in § 30-6(a), temporary outdoor on-site signs shall be allowed to address grand openings, sale events, ~~or special occasions such as car, boat or craft shows, carnivals~~, parking lot sales, annual and semi-annual promotions, or other similar events, provided that:

- (1) A special occasion sign permit is issued by the town manager; building official;
- (2) The permit shall be for the duration of the event only, with a maximum of 3 consecutive days;
- (3) No business shall be permitted more than two such permits in a calendar year;
- (4) Signs shall be located on-site only and in such a manner as to not create any traffic or pedestrian hazard;
- (5) No animated or portable signs shall be permitted; and
- (6) Signs shall be constructed and secured in accordance with all applicable standards.

Sec. 30-152. Permanent identification signs in residential areas.

Permanent identification signs in residential areas shall be subject to the following:

(a) **Definition.** For purposes of this section, the term “subdivision” shall be interpreted to include mobile home and recreational vehicle developments, condominiums, and multiple family buildings containing five or more dwelling units.

(b) **Residential development identification signs.**

(1) **Entrance signs.** Permanent wall or monument ground-mounted signs for identification purposes only, giving only the name of the condominium, subdivision, or residential development, may be permitted at each main entrance into such subdivision or development, ~~subject to the following regulations:~~ a. Subdivision or residential development entrances which contain a boulevard entrance, i.e., a median strip separating the entrance and exit lanes, may be permitted:

- a. 1. A single monument ground-mounted sign located in the median strip of the entrance, provided that it is set back a minimum of 15 feet from the right-of-way of the public access road and a minimum of five feet from the edge of the pavement of the entrance and exit lanes, or
- b. 2. Two single-faced signs equal in size and located on each side of the entranceway.

~~(2) **Internal subdivision signs.** Permanent wall or ground-mounted signs for identification purposes may be permitted at one main entrance into each internal subdivision or development, subject to the following:~~

- ~~a. Subdivision entrances which contain a boulevard entrance, i.e. a median strip separating the entrance and exit lanes, would be permitted:~~
 - ~~1. A single ground-mounted sign located in the median strip of the entrance and exit lanes would be permitted:~~
 - ~~2. Two single-faced signs equal in size and located on each side of the entranceway.~~

~~(2) (3) **Limitations.**~~

- ~~a. The subdivision shall have a homeowners’ association or similar entity which will be responsible for maintenance of the sign.~~
- ~~b. The face of each permitted main entrance identification sign shall not exceed 24 square feet. Monument signs are limited in height and exposure of sign supports as provided in § 30-153. ~~The maximum height for all identification signs shall be determined by the permitted dimensions of a ground mounted, monument sign, where the sign support is not greater than 1/3 of the height of the sign. For example, a ground-mounted monument sign which is 4 feet in height may be no more than 16 inches above the crown of the road.~~~~
- ~~c. The face of each permitted internal identification sign shall not exceed 24 square feet in area.~~
- ~~d. Except when permitted in the entrance median strip, the sign shall be located within the property line.~~
- ~~e. The sign may be illuminated with a steady light so shielded as to not allow the light to interfere with vehicular traffic. See ch. 14 of this code for sea turtle lighting restrictions.~~
- ~~f. The sign should be incorporated into accessory entrance structural features such as a project wall or landscaping.~~

(c) **Schools, churches, day care centers, parks, recreational facilities, and libraries.** A school, church, day care center, park, recreational facility, library, or any other similar use ~~permitted by right or by special exception in accordance with the town’s zoning regulations shall be permitted one monument ground-mounted or wall-mounted identification sign and one directory sign within the property line, with subject to the following limitations:~~ (1) maximum sign area shall be of 24 square feet per sign face. Monument signs are limited in height and exposure of sign supports as provided in § 30-153.

- ~~(1) Signs shall be located within the property line.~~
- ~~(2) The maximum height for all identification signs shall be determined by the permitted dimensions of a ground mounted, monument sign, where the sign support is not greater~~

than 1/3 of the height of the sign. For example, a ground mounted, monument sign which is 4 feet in height, may be no more than 16 inches above the crown of the road.

~~(d) On-site directional signs:~~

- ~~(1) Permitted signs.~~ Permanent wall or ground-mounted signs, for directional purposes only, may be permitted within any residential development which consists of several distinctly separate subdivisions, clusters or other sub-units of development.
- ~~(2) Location.~~ On-site directional signs may be permitted within any such residential development along any interior collector street at intersections with other interior streets.
- ~~(3) Limitations:~~
 - ~~a.~~ The development shall have a homeowners association or similar entity responsible for maintenance of the sign.
 - ~~b.~~ The face of each permitted directional sign shall not exceed 4 square feet in area.
 - ~~c.~~ Maximum permitted height shall be a 3-foot by 4-foot monument style sign.
 - ~~d.~~ Signs shall be located within the property line.
 - ~~e.~~ The signs may be illuminated.

Sec. 30-153. Permanent signs in commercial areas:

In order to provide fair, equal and adequate exposure to the public, and to prevent any single property owner from visually dominating neighboring properties with signs, all nonresidential uses shall be limited to a total permissible sign area in accordance with the provisions of this section:

(a) Each business shall be allowed 32 square feet of signage for each frontage providing vehicle access:

(b) ~~Nonresidential subdivisions and multiple-occupancy complexes.~~

- (1) ~~Identification sign.~~ A nonresidential subdivision or a multiple-occupancy complex shall be permitted ground-mounted identification signage along any street which provides access to the property as follows:
 - a. ~~One 32-square-foot identification sign for buildings with less than 10 occupants.~~
 - b. ~~One 64-square-foot identification sign or two 32-square-foot identification signs for buildings with more than ten occupants.~~
 - c. ~~Identification signs must contain the address in a minimum of 8 inch letters.~~
 - d. ~~In the absence of free-standing identification signage each business shall have the address prominently displayed on the building in 8 inch letters minimum, 24 square foot maximum.~~
 - e. ~~The maximum height for all identification signs shall be determined by the permitted dimensions of a ground mounted, monument sign, where the sign support is not greater than 1/3 of the height of the sign. For example, a ground mounted, monument sign which is 4 feet in height, may be no more than 16 inches above the crown of the road.~~
 - f. ~~The identification sign may be illuminated with a steady light, but the sign shall not be animated. See ch. 14 of this code for sea turtle lighting restrictions.~~
 - g. ~~Identification signs shall be located within the property line.~~
 - h. ~~No sign permitted by this subsection shall contain any advertising message concerning any business, goods, products, services or facilities which are not manufactured, produced, sold,~~

provided or located on the premises upon which the sign is erected or maintained:

(c) ~~Individual occupants within multiple-occupancy complex.~~ Individual offices, institutions, or business establishments located within a multiple-occupancy complex shall not be permitted individual ground-mounted identification signs, but may display wall-mounted, marquee, or canopy signs as follows:

- (1) ~~Sign content.~~ No sign permitted by this subsection shall contain any advertising message concerning any business, goods, products, services or facilities which are not manufactured, produced, sold, provided, or located on the premises upon which the sign is erected or maintained.

(d) ~~Individual office, institution, or business establishments.~~ The following regulations shall apply for any office, institution, or business establishment which is not located within a multiple-occupancy complex:

- (1) ~~One 32-square-foot sign.~~
- (2) ~~The maximum height for all identification signs shall be determined by the permitted dimensions of a ground mounted, monument sign, where the sign support is not greater than 1/3 of the height of the sign. For example, a ground mounted, monument sign which is 4 feet in height, may be no more than 16 inches above the crown of the road.~~
- (3) ~~Identification signs may be illuminated, but shall not be animated.~~
- (4) ~~Wall-mounted, marquee, or canopy signs may be displayed provided the total sign area of such signs plus any permitted ground-mounted identification sign does not exceed 32 square feet.~~
- (5) ~~Identification signs shall be located within the property line.~~

(e) ~~Emergency medical facilities.~~ Emergency medical facilities shall be allowed the same size identification sign as permitted for individual establishments not located within a multiple occupancy complex (see subsection (d) of this section). In addition one additional illuminated monument sign, not to exceed 3 feet by 4 feet, to identify emergency entrances, shall be permitted.

(f) ~~Motion picture theaters.~~ Motion picture theaters shall be allowed one sixty-four (64) square-foot illuminated sign.

Sec. 30-153. Permanent identification signs in commercial areas.

(a) **Generally.** In order to provide fair, equal, and adequate exposure to the public, and to prevent businesses from visually dominating neighboring properties, permanent identification signs for all commercial uses, and for other uses not regulated by § 30-152, must be in accordance with this section and with the remainder of this chapter.

(1) **Size.** Identification signage is limited to 16 square feet per establishment, or 32 square feet for buildings containing only a single establishment. Motion picture theaters are permitted one identification sign of 64 square feet.

- a. Multiple-occupancy complexes, as defined in this chapter, are permitted additional signage up to 32 square feet to identify the complex and/or its occupants.
- b. Sign area and height are measured in accordance with §§ 30-90–91.

(2) **Type of signs.** Identification signs may use any combination of the following types of signs:

- i. Wall signs, including nameplates and window signs, see subsection (b).
- b. Projecting signs, including awning signs, see subsection (c).
- c. Monument signs, see subsection (d).

(3) **Lighting.** Preferred methods for lighting identification signs are individual letters and symbols that are internally lit or signs that are lit by a steady external light. External lighting must use fully shielded fixtures and must comply with § 30-94(d). If visible from the beach, external lighting must also comply with § 14-76(5).

- a. Buildings that are required to meet the commercial design standards in § 34-991–1010 cannot install internally lit box signs (see Figure 30-1).



Figure 30-1

- b. When internally lit signs are permitted for buildings that are not required to meet the commercial design standards, the sign face must be designed so that illumination occurs only on individual letters or symbols; opaque background panel must be used so that internal light only passes through the letters or symbols. This requirement also applies to all signs with changeable copy. See Figure 30-2 for an example of illuminated letters on an internally lit sign face.



Figure 30-2

- c. Signs and sign lighting may not be animated.
 - d. See §§ 30-93(c) and 30-94(d) and ch. 14 of this code for sea turtle lighting restrictions.
- (4) **Location.** Identification signs must be located within the property line and set back at least 3 feet from any public right-of-way or easement, except that wall signs and projecting signs may extend over public sidewalks provided they maintain a minimum clear height above sidewalks of 8 feet and do not extend closer than 2 feet to an existing or planned curb.
- (5) **Advertising.** Identification signs may not contain any advertising message concerning any products or services which are not sold, provided, or located on the same premises.
- (6) **Building numbers.** Each building or multiple-occupancy complex must be clearly posted with the building’s street number (see § 30-6(a)).

(b) **Wall signs.** Wall signs are attached to or painted on the wall of a building or structure and extend no more than 18 inches outward from the wall in a plane approximately parallel to the plane of said wall.

- (1) Figure 30-3 illustrates desirable and undesirable placement of signs on facades.
- (2) Figure 30-4 shows examples of wall signs that are placed flat against a principal facade in compliance with this chapter.
- (3) Nameplates and window signs are special types of walls signs that may be installed without a sign permit provided they comply with the special requirements of § 30-6(a).

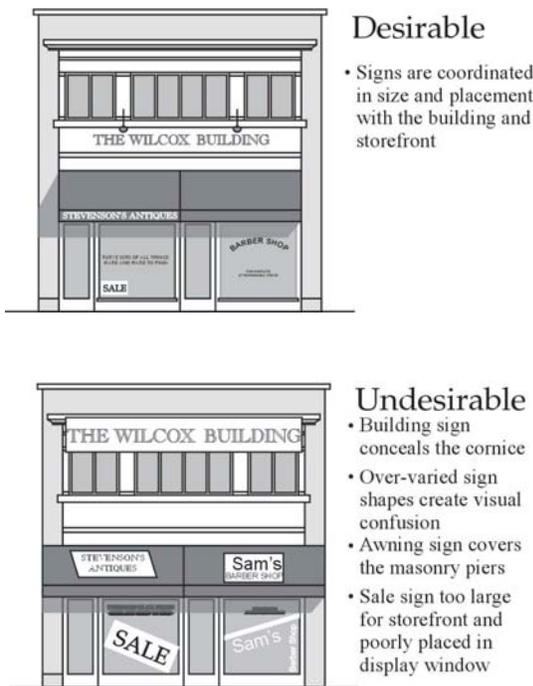


Figure 30-3

Examples of Wall Signs

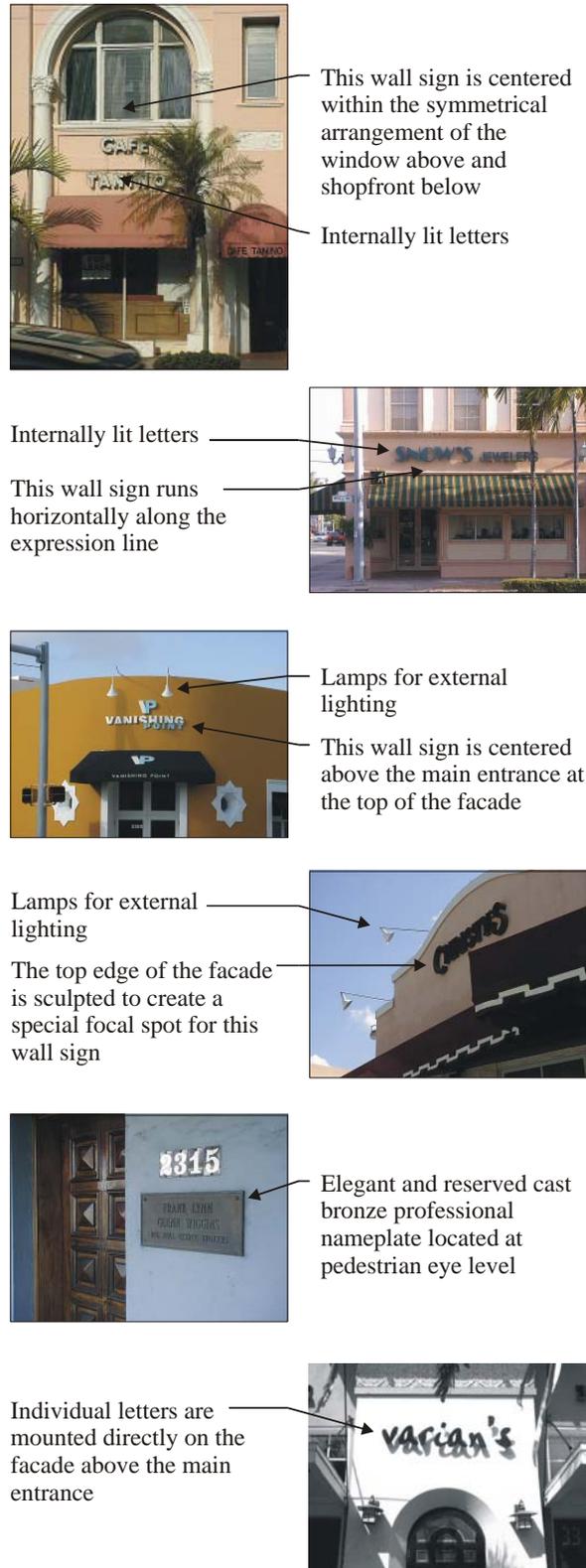


Figure 30-4

(c) **Projecting signs.** Projecting signs are signs which project more than 18 inches above, below, or outward from, and are supported by a wall, parapet, or outdoor ceiling of a building.

- (1) Figure 30-5 shows examples of projecting signs that project out from and/or extend above a principal facade.
- (2) Projecting signs on buildings that are required to meet the commercial design standards in § 34-991–1010 must obtain a compliance determination in accordance with § 34-992(d) prior to obtaining a regular sign permit.
- (3) Awning signs as defined in this chapter are special types of projecting signs that may be installed without a compliance determination or a sign permit provided they comply with the requirements found in § 30-6(a).

Examples of Projecting Signs

Discreetly located external lighting

Sign painted on the face of a canvas awning over entry

Small projecting signs can be combined with flat wall signs

Signs projecting above the roof stand out against the sky, adding an architectural flair to a shop's identity

Vertical projecting signs are visible down the street

A projecting sign extending from the corner of a building is highly visible along two streets

A second lower sign catches the eye of pedestrians passing in front of the entrance

Signs suspended from The ceilings of colonnades are highly visible to pedestrians

Figure 30-5

(d) Monument signs. Monument signs are free-standing with internal structural supports, where the height from the ground to the highest point on the sign is less than the sign's greatest horizontal dimension.

- (1) Monument signs may be elevated provided that the bottom of the sign is no more than 1/3 of the greatest vertical dimension above the ground immediately below the sign.
- (2) The maximum height of a monument sign is 5 feet above the crown of the adjacent street.
- (3) No part of a monument sign may be closer than 3 feet from any right-of-way.
- (4) Clear visibility must be maintained on corner lots in accordance with § 30-93.
- (5) Buildings that are required to meet the commercial design standards in § 34-991-1010 cannot install monument signs. For all other buildings, Figure 30-6 shows recent local examples of monument signs.

Examples of Monument Signs



Background can use attractive natural materials

Monument signs can reflect merchandise being sold or the architecture of the building



Signs can reflect logos of chain stores while having a design suitable to its context



Monument signs can incorporate landscaping and decoration that match the business



Monument signs are also suitable for lodging establishments



Figure 30-6