

ORDINANCE NO. 18-09

AN ORDINANCE AMENDING TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE CHAPTER 6, ARTICLE I, PERTAINING TO NEIGHBORHOOD FLOODING; PROVIDING FOR APPLICABILITY; CODIFICATION; CONFLICTS; SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, the Legislature of the State of Florida has, in Chapter 166 Municipalities, Florida Statutes, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, Chapter 10 of the Land Development Code requires stormwater management systems for new development subject to Chapter 10; and

WHEREAS, development that is not subject to the requirements of Chapter 10, such as single-family and two-family dwellings, and other associated improvements, can potentially flood surrounding lots and streets; and

WHEREAS, the placement of fill on vacant properties has the potential to cause flooding on surrounding lots and streets; and

WHEREAS, the Town of Fort Myers Beach Town Council has determined it is in the public interest to adopt the proposed neighborhood flooding ordinance that is consistent with the Town's floodplain management regulations; and

WHEREAS, the Town's objective is that no property shed its storm water onto an adjacent property and in all cases maintain 1.6 inches on a waterfront lot and 1 inch on an interior lot; and

WHEREAS, the Town's implementation of the previously created drainage requirements has had a negative impact on previously developed lots due to stormwater design techniques required to meet the strict intent of the amendment; and

WHEREAS, the Town desires to balance the need to protect neighborhoods from flooding while affording homeowner's the ability to make de minimus improvements that avoid fill while utilizing existing grades; and

WHEREAS, at a public hearing on May 23rd, 2018 the Local Planning Agency gave full consideration to staff and public input, consideration of factors related to implementation of the previous amendment; and recommended approval by a 5-0 vote; and

WHEREAS, permits currently under review qualify to utilize the amended language if they desire to do so, as well as unconstructed permitted improvements that may be

modified through a permit modification; and

WHEREAS, on June 4th, 2018 the Town Council held a first reading of the proposed Ordinance, where they voted to hold a public hearing for a second reading of the proposed Ordinance. The second reading was directed to be advertised and held on June 18th, 2018 to consider the recommendation of the LPA, staff, and testimony of the public and interested parties, as required by Fort Myers Beach Land Development Code (LDC) Section 34-85; and

NOW, THEREFORE, BE IT ORDAINED by the Town Council of Fort Myers Beach that the following neighborhood flooding regulations are hereby adopted.

SECTION 1. RECITALS.

The foregoing whereas clauses are incorporated herein by reference and made a part hereof.

SECTION 2. AMENDMENT OF TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE CHAPTER 6.

The Town of Fort Myers Beach Land Development Code Chapter 6, Article I, pertaining to Neighborhood Flooding, is hereby amended with underlining representing new text and strikethrough identifying deleted text.

ARTICLE I. PROPERTY MAINTENANCE CODES

DIVISION 1. INTERNATIONAL PROPERTY MAINTENANCE CODE

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, detached structures, pools, pool decks, additions, pavers, driveways, patios, etc. 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. The placement of fill on vacant properties have the potential to also cause surrounding lots and streets to flood and therefore when no other development permit is being obtained at the time fill is being brought to the site, a site fill permit must be obtained. The fill permit application must show how normal rainfall 1" (interior lot)-1.6" (waterfront lot) will have an opportunity to infiltrate into the ground within the lot.

To minimize neighborhood flooding from normal daily rainfall, no more than 67%

of the total lot area within a residential zoning district shall be covered with impervious surfaces. The plans must indicate the method used to maintain a 1" (interior lot) or 1.6" (waterfront lot) rainfall on site when more than 500 square feet of impervious surface is proposed.

(1) 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.

SECTION 3. APPLICABILITY.

This ordinance applies within the jurisdiction of the Town of Fort Myers Beach. This ordinance applies to all applications for development, including building permit applications and subdivision proposals, submitted on or after the effective date of this ordinance.

SECTION 4. INCLUSION INTO THE CODE OF ORDINANCES.

The Town Council intends that the provisions of this ordinance will be made a part of the Fort Myers Beach Code of Ordinances, and that sections of this ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," "regulation," or such other appropriate word or phrase in order to accomplish codification; and, regardless of whether this ordinance is ever codified, the ordinance can be renumbered or relettered and typographical errors that do not affect the intent can be corrected with the authorization of the Town manager or designee without the need for a public hearing.

SECTION 5. SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, declared by the courts to be unconstitutional or invalid, such decision will not affect the validity of the ordinance as a whole, or any part thereof, other than the part so declared.

SECTION 6. CONFLICTS.

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

SECTION 7. EFFECTIVE DATE.

This Ordinance shall take effect immediately upon adoption by the Town Council.

THE FOREGOING ORDINANCE was enacted by the Town Council upon a motion by Council Member Cereceda and seconded by Council Member Boback and, upon being put to a roll call vote, the result was as follows:

Tracey Gore, Mayor	aye	Bruce Butcher, Council Member	aye
Anita Cereceda, Council Member	aye	Joanne Shamp, Vice Mayor	aye
Dennis Boback, Council Member	aye		

DULY PASSED AND ENACTED this 18th day of June, 2018.

ATTEST:

TOWN OF FORT MYERS BEACH

By: 
Michelle D. Mayher, Town Clerk

By: 
Tracey Gore, Mayor

Approved as to form by:

By: 
Peterson Law Group, Town Attorney