ORDINANCE 08-09

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH AMENDING THE FLOODPLAIN REGULATIONS AND REFERENCES TO THE FEDERAL FLOOD INSURANCE STUDY (FIS) AND FLOOD INSURANCE RATE MAPS (FIRM) IN THE LAND DEVELOPMENT CODE (LDC); ADOPTING AMENDMENTS TO ARTICLE IV (FLOODPLAIN REGULATIONS) OF CHAPTER 6 OF THE LDC, TITLED "MAINTENANCE CODES, BUILDING CODES, AND COASTAL REGULATIONS," AND WHICH PROVIDES ARTICLE IV FLOODPLAIN REGULATIONS, DIVISION 1 GENERALLY; PROVIDING AUTHORITY; PROVIDING FOR CONFLICTS; SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Article VIII, Section 2 of the Constitution of the State of Florida and Chapters 166 and 163 of the Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and exercise any power for municipal purposes except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, the measures set forth in this Ordinance are necessary to provide for the protection of public health, safety and welfare of the citizens of the Town.

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

SECTION 1. Incorporation of Recitals. The above "whereas" clauses are incorporated herein as though fully set forth.

SECTION 2. Adoption of Amendments to Article IV of 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: Article IV of this chapter, titled FLOODPLAIN REGULATIONS" is hereby amended as shown in Exhibit A, which is hereby incorporated by reference. Entirely new language is indicated with underlining. Language being repealed from the existing code is indicated with ~~strike-throughs.~~ Existing language being retained is neither underlined nor struck through. The amendment of Article IV of Chapter 6 amends the following division and sections:

ARTICLE IV. FLOODPLAIN REGULATIONS

Division 1. Generally

Section 6-405. Definitions

Section 6-408 Basis for establishing flood regulations

SECTION 3. 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 shall apply.

SECTION 4. 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 shall for any reason whatsoever beheld 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 affect the validity of all other provisions of this ordinance.

SECTION 5. Effective Date. This ordinance shall become effective immediately upon its adoption.

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

Larry Kiker, Mayor	aye	Tom Babcock	aye
Herb Acken, Vice Mayor	aye	Jo List	aye
Bob Raymond	aye		

DULY PASSED AND ENACTED this 18th day of August, 2008

ATTEST: TOWN OF FORT MYERS BEACH

By: _____ By: _____

Michelle D. Mayher, Town Clerk Larry Kiker, Mayor

Approved as to legal form and sufficiency by:

_____

Anne Dalton, Esquire, Town Attorney

EXHIBIT A

FORT MYERS BEACH LAND DEVELOPMENT CODE

CHAPTER 6
MAINTENANCE CODES, BUILDING CODES, AND COASTAL REGULATIONS[1]

ARTICLE IV. FLOODPLAIN REGULATIONS

DIVISION 1. GENERALLY

Sec. 6-401. through **Sec. 6-404. [No changes.]**

Sec. 6-405. Definitions.[3]

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Unless specifically defined in this section, words or phrases used in this article shall be interpreted so as to give them the meanings they have in common usage and to give this article its most reasonable application.

Accessory structure means a building or structure which is customarily incidental and subordinate to a principal building or to the principal use of the premises, and located on the same premises.

Addition means any walled and roofed expansion that increases the floor space of an existing building in which the addition is connected by a common loadbearing wall other than a firewall. Any walled and roofed addition which is connected by a firewall or is separated by independent perimeter loadbearing walls is considered new construction.

Appeal means a request for a review of the coordinator's interpretation of any provision of this article. A request for a variance from the precise terms of this article is not an appeal.

Area of special flood hazard means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The entire Town of Fort Myers Beach has been designated an area of special flood hazard by the Federal Emergency Management Agency (see § 6-408).

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year, as determined by the maps described in § 6-408.

Breakaway walls means any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic, or any other suitable building materials, which are not part of the structural support of the building and which are designed and constructed to collapse under specific lateral loading forces without causing damage to the elevated portion of the buildings or the supporting foundation system on which they are used.

Building means any structure built for support, shelter, or enclosure for any occupancy or storage.

Coastal high-hazard area means the area subject to high-velocity ~~waters caused by~~ wave action from storms or seismic sources. The coastal high-hazard area is ~~designated~~ identified as Zone V on the flood insurance rate map ~~as zones V1--V30~~.

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[1] ***Cross reference(s)***--*Development design standards, § 10-251 et seq.; design standards for utilities, § 10-351 et seq.; design standards for fire safety, § 10-381 et seq.; historic preservation, ch. 22; variances from building regulations for historic structures, § 22-175; zoning, ch. 34; permit for moving buildings, § 34-3103; nonconforming buildings, § 34-3231 et seq.*

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

[No changes to definitions between "Coastal high-hazard area" and "Mean sea level."]

Mean sea level means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this article, the term is synonymous with North American Vertical Datum of 1988 (NAVD 88) ~~National Geodetic Vertical Datum (NGVD) of 1929~~, to which base flood elevations shown on the flood insurance rate map are referenced.

North American Vertical Datum of 1988 (NAVD 88) is a vertical control datum used as a reference for establishing varying elevations within the floodplain. For purposes of this chapter, NAVD 88 replaced NGVD 29 on August 28, 2008. To convert a known elevation in Lee County that had been measured relative to NGVD 29, subtract 1.18 feet to determine its elevation relative to NAVD 88 (NGVD - 1.18 feet = NAVD 88).

National Geodetic Vertical Datum (NGVD), as corrected in 1929, is a vertical control that was previously used as a reference for establishing varying elevations within the floodplain. The use of NGVD 29 on FEMA maps and in these floodplain regulations was discontinued as of August 28, 2008. To convert a known elevation in Lee County that had been measured relative to NGVD 29, subtract 1.18 feet to determine its elevation relative to NAVD 88 (NGVD - 1.18 feet = NAVD 88).

Added to August 7 draft

[No further changes to this Section.]

Sec. 6-406. through **Sec. 6-407. [No changes.]**

Sec. 6-408. Basis for establishing flood regulations.

The entire Town of Fort Myers Beach has been designated an area of special flood hazard by the Federal Emergency Management Agency (FEMA). ~~Their~~ FEMA maps illustrating the minimum federal floodplain regulations as adopted on ~~September 19, 1984,~~ August 28, 2008, and all revisions thereto, are adopted by reference and declared to be a part of this article. These flood insurance rate maps show base flood elevations and coastal high-hazard areas (V zones) for the entire town and are available for inspection at town hall and at the Lee County ~~Administration~~ Department of Community Development Building, ~~2115 Second Street~~ 1500 Monroe Street, Fort Myers, or can be viewed at *www.fema.gov*, or can be purchased by calling 1-800-358-9616. The individual map panels are numbered as follows:

General area shown	*Panel number*	*Latest*
~~Bowditch – Donora~~	~~125124 0429D~~	~~9/20/96~~
~~Donora – Gulfview~~	~~125124 0433B~~	~~9/19/84~~
~~Gulfview – Flamingo~~	~~125124 0441B~~	~~9/19/84~~
~~Flamingo – Buccaneer~~	~~125124 0442C~~	~~7/20/98~~
~~Buccaneer – Big Carlos~~	~~125124 0444D~~	~~7/20/98~~
Bowditch	120673 0553F	8/28/08
Bowditch – Lovers Ln.	120673 0554F	8/28/08
Lovers Ln. – Gulfview	120673 0558F	8/28/08
Gulfview – Mound Rd.	120673 0566F	8/28/08
Mound Rd. – Buccaneer	120673 0567F	8/28/08
Buccaneer – Big Carlos	120673 0569F	8/28/08

Sec. 6-409. through **Sec. 6-440. [No changes.]**