



# Town of Fort Myers Beach

## LOCAL PLANNING AGENCY

Town Hall  
2525 Estero Boulevard  
Fort Myers Beach, Florida  
33931

**February 14, 2017**

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### AGENDA

9:00 AM

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- I. Call to Order
- II. Pledge of Allegiance
- III. Invocation
- IV. Minutes
  - A. Minutes of January 10, 2017
  
- V. Resolution- Surplus Parking LDC Amendment – Chapter 34, Division 26
  
- VI. Discussion: Construction of Habitable Areas Below Elevated Homes
- VII. Historic Preservation Board meeting:  
Adjourn as LPA and reconvene as Historic Preservation Board
  1. Reorganization – Committee Members  
Adjourn as Historic Preservation Board and reconvene as LPA
  
- VIII. LPA Member Items and Reports
- IX. LPA Attorney Items
- X. Community Development Items
- XI. Items for next month's Agenda
- XII. Public Comment
- XIII. Adjournment

*Next Meeting: March 14, 2017*



**For special accommodations, please notify the Town Clerk's Office at least 72 hours in advance. (239) 765-0202**



**Help for the hearing impaired is available through the Assistive Listening System. Receivers can be obtained from the Town Clerk's Office.**

*In accordance with the Americans with Disabilities Act (ADA), persons needing a special accommodation to participate in the Board's proceedings should contact the Town Clerk's Office not later than three days prior to the proceedings.*



**FORT MYERS BEACH  
LOCAL PLANNING AGENCY (LPA)  
MINUTES  
Town Hall  
2525 Estero Boulevard  
Fort Myers Beach, Florida 33931  
Tuesday, January 10, 2017**

**I. CALL TO ORDER**

Meeting was called to order at 9:00 a.m. by Chair Zuba. Members present: Bruce Butcher, Dan Hendrickson, Megan Heil, Suzanne Katt, Jane Plummer, Scott Safford and Hank Zuba.

Town Attorney: Dawn Lehnert

Staff: Matt Noble

**II. PLEDGE OF ALLEGIANCE**

**III. INVOCATION**

**IV. MINUTES - December 13, 2016**

**MOTION:** Mr. Butcher moved to approve the minutes, second by Ms. Plummer.

**VOTE:** Motion approved; 7-0.

**V. ORDINANCE 16-08**

**An ordinance of the Town of Fort Myers Beach, Florida, amending Town of Fort Myers Beach Land Development Code Chapter 34 to create supplemental regulations applicable to rental of designated surplus parking spaces; providing for a definition of “surplus parking spaces”; requirement to obtain a use permit to allow rental of designated surplus parking spaces; providing for severability; conflicts of law; codification, scrivener’s errors; and an effective date.**

Principal Planner Matt Noble reviewed the changes. He indicated that staff believed surplus parking should be regulated and a registry be created.

Ms. Katt clarified that the ordinance applied to parking lots with 10 or more spaces. She questioned if it was a one-time use permit. Mr. Noble replied in the affirmative. Ms. Katt questioned whether an owner

could rent their parking places when their business was closed on a specific day. Kara Stewart, Director of Community Development, explained daily and temporary uses according to Code.

Mr. Butcher discussed defining required parking spaces.

Chair Zuba reviewed the five amendments in Section 34-2019.

Discussion ensued regarding required parking and the renting spaces and what is permitted relative to the existing use and what was required for a particular property.

Ms. Katt questioned whether the survey had to be new; Ms. Stewart replied that she was comfortable removing the new survey requirement in amendment number one.

Chair Zuba supported the parking plan requirement in number three. Mr. Butcher questioned whether a business with extra spaces could rent the majority of their parking while saving one for customers. Ms. Stewart replied in the affirmative.

Ms. Plummer questioned additional parking signs and regulations in number four. Mr. Butcher noted that it would be impossible to regulate. Chair Zuba agreed.

Ms. Plummer felt that signage should only be allowed when the lot was open. Ms. Stewart stated that signage had to be in compliance with the existing sign code. She stated that two small directional signs would be allowed.

Mr. Safford described his parking experience in relation to his business. He agreed that closed businesses should be able to make a little money by renting out parking spaces.

**MOTION:** Chair Zuba moved to accept the amendments to ordinance 16-08 with the changes that eliminated the survey requirement and parking plan; second by Ms. Plummer.

**VOTE:** Motion approved; 7-0.

## **VI. FLOODPLAIN - 50% RULE DISCUSSION**

Mr. Safford discussed the pros concerning reducing the five-year requirement to one year. The con was that the Town's insurance rating would drop; however, the drop would not negatively affect the overall score. Discussion was held regarding whether home owners would raise their homes because of the 50% rule, affordability issues and appraisal requirements.

### **Public Comment:**

- John Gucciardo stated that the five-year requirement was originally based solely on obtaining points for insurance purposes.

Ms. Plummer discussed the advantages of going to a one-year requirement.

Ms. Katt questioned fiddling with the appraised/market value. Town Attorney Lehnert stated that there were different ways to determine the market value. Ms. Stewart indicated that valuation tables were available.

**MOTION:** Ms. Plummer moved to recommend that they change from a five-year plan to a one-year plan for the 50% rule and that they change the one year on appraisals; second by Mr. Butcher.

Discussion was held regarding the age of the appraisal and changing the definition of market value.

**AMENDED:** Ms. Plummer moved to recommend that they change from a five-year plan to a one-year plan for the 50% rule; second by Mr. Butcher.

**VOTE:** Motion approved; 7-0.

**MOTION:** Ms. Plummer moved to recommend that the time period of the appraisal should be reconsidered and lengthened to a minimum of two years; second by Mr. Butcher.

**VOTE:** Motion approved; 7-0.

**MOTION:** Ms. Plummer moved to recommend that a percentage multiplier of the building value established by the property appraiser may be used when an appraisal is not available that meets that criteria; second by Ms. Katt.

**VOTE:** Motion approved; 7-0.

## **VII. LPA MEMBER ITEMS AND REPORTS**

Megan Heil introduced herself.

Chair Zuba brought up the issue of illegal housing and he would like the LPA to review a report he drafted.

**VIII. LPA ATTORNEY ITEMS - no items.**

**IX. COMMUNITY DEVELOPMENT ITEMS - no items.**

**X. ITEMS FOR NEXT MONTH'S AGENDA - February 14, 2017**

**XI. PUBLIC COMMENT - no public comment.**

## **XII. ADJOURNMENT**

**MOTION:** Mr. Hendrickson moved to adjourn the meeting; second by Mr. Butcher.

**VOTE:** Motion approved; 7-0.

Meeting adjourned at 10:38 a.m.

Adopted \_\_\_\_\_ With/Without changes. Motion by \_\_\_\_\_

Vote: \_\_\_\_\_

- End of document

**RESOLUTION OF THE LOCAL PLANNING AGENCY OF  
THE TOWN OF FORT MYERS BEACH FLORIDA  
RESOLUTION NUMBER 2017-001  
AMENDMENTS TO SURPLUS PARKING REGULATIONS IN  
LAND DEVELOPMENT CODE, CHAPTER 34**

**WHEREAS**, the existence of the Local Planning Agency (LPA) is mandated by Florida Statutes Section 163.3174; and

**WHEREAS**, the Local Planning Agency (LPA) is statutorily responsible under Chapter 163, Florida Statutes, and the Town of Fort Myers Land Development Code (LDC) Section 34-120 for the review of proposed land development regulations, land development codes, or amendments thereto, and for making recommendations to the Town Council with regard thereto and performing such other reviews as are requested by the Town Council; and

**WHEREAS**, following proper notice and as required under the LDC, the LPA conducted a public hearing on January 10, 2017 to consider a proposed Town Ordinance amending certain sections of the LDC, which is attached hereto as *Exhibit A* and is hereby incorporated by reference; and

**WHEREAS**, the aforesaid Ordinance, if passed, would amend regulations relating to rental of surplus parking spaces, as is more fully set forth in the proposed Ordinance; and

NOW THEREFORE BE IT RESOLVED BY THE LOCAL PLANNING AGENCY, that the LPA recommends that Town Council **APPROVE** and adopt the proposed Town Ordinance amending Division 26, Parking, eliminating proposed sections 34-2019(a)(1) and (4).

**PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW:**

1. The proposed ordinance is in the best interest of the health, safety and welfare of the citizens, residents, visitors, and business owners of the Town of Fort Myers Beach and the LPA hereby recommends that the Town Council adopt the proposed ordinance with changes as noted above and in Exhibit A.

2. The Proposed ordinance is not inconsistent with the Town of Fort Myers Beach Comprehensive Plan.

The foregoing Resolution was adopted by the LPA upon a motion by LPA Member and seconded by LPA Member and upon being put to a vote, the result was as follows:

Hank Zuba, Chair  
Dan Hendrickson, Member

Bruce Butcher, Vice Chair  
Suzanne Katt, Member

Megan Heil, Member  
Scott Safford, Member

Jane Plummer, Member

DULY PASSED AND ADOPTED THIS **14th** day of **February, 2017**

Local Planning Agency of the Town of Fort Myers Beach

By: \_\_\_\_\_  
Hank Zuba, Chair

Approved as to legal sufficiency:

By: \_\_\_\_\_  
LPA Attorney

ATTEST:

By: \_\_\_\_\_  
Michelle Mayher  
*Town Clerk*

**LPA Resolution Number 2017-001**

**Exhibit A**

**ORDINANCE 16-08**

**AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE CHAPTER 34 TO CREATE SUPPLEMENTAL REGULATIONS APPLICABLE TO RENTAL OF DESIGNATED SURPLUS PARKING SPACES; PROVIDING FOR A DEFINITION OF “SURPLUS PARKING SPACES”; REQUIREMENT TO OBTAIN A USE PERMIT TO ALLOW RENTAL OF DESIGNATED SURPLUS PARKING SPACES; PROVIDING FOR SEVERABILITY; CONFLICTS OF LAW; CODIFICATION, SCRIVENER’S ERRORS; AND AN EFFECTIVE DATE.**

**WHEREAS**, the Town Council has the authority to enact and amend ordinances and regulations pursuant to the provisions of Laws of Florida Chapter 95-494, Florida Statutes chapters 163 and 166 and its Town Charter section 3.01; and

**WHEREAS**, on September 6, 2016 the Local Planning Agency reviewed the proposed provisions and found they were not inconsistent with the Town’s Comprehensive Plan; and

**WHEREAS**, the Town Council held public hearings concerning the proposed ordinance on October 3, 2016 and \_\_\_\_\_; and

**WHEREAS**, the Town Council finds it is appropriate and in the best interest of the citizens and visitors of the Town of Fort Myers Beach to adopt this ordinance.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS:**

**SECTION ONE: AMENDMENT TO LAND DEVELOPMENT CODE CHAPTER 34**

Town of Fort Myers Beach Land Development Code chapter 34 is amended as set forth below with strike through indicating deleted text and underline indicating additional text.

## CHAPTER 34

### ARTICLE IV. SUPPLEMENTAL REGULATIONS

#### DIVISION 26. - PARKING

##### **Sec. 34-2011. Types of parking facilities.**

Parking facilities in the Town of Fort Myers Beach take a variety of forms, generally classified as follows:

- (1) *Single-purpose parking lots.* Single-purpose parking lots are designed to serve individual businesses, multiple-family buildings, mixed-use buildings, and multiple-occupancy complexes. Single-purpose parking lots are usually located on the same parcel as the use(s) they serve and may include parking spaces under a building or in a parking garage.
  - a. Most single-purpose parking lots are considered by this code to be accessory uses of land (§ 34-1171 ~~of this chapter~~) and thus can be built to serve any permitted principal use on the same parcel of land.
  - b. Some single-purpose parking lots serve two or more non-abutting parcels, as provided in § 34-2018 ~~of this chapter~~ for joint-use parking lots.
  - c. Designated Surplus parking spaces in some single-purpose parking lots may be rented to the general public ~~during peak periods~~, as provided in subsection 34-2019(a) ~~of this chapter~~.

(2)-(3) *No change.*

##### **Sec. 34-2012. Definitions.**

For purpose of this division only, certain words or phrases are defined as follows:

Surplus parking spaces means additional parking spaces above and beyond those spaces required by the Land Development Code to support specific land uses (see § 34-2020 for required parking spaces by land use) on a specific parcel of land. The surplus parking spaces must be part of already established parking spaces on the individual property.

*No change to the balance of this section.*

##### **Sec. 34-2017. - Parking lot surfaces.**

- (a) *No change.*
- (b) *Low turnover parking lots.* Due to the low volume of vehicle turnover in this type lot, alternative unpaved parking lot surfaces may parking lot can be provided for some or all of the required parking spaces ~~for two or more unrelated businesses also be permitted~~ provided that the areas are adequately drained and continuously maintained in a dust-free manner.

(1)-(4) *No change.*

(c) *Reduced surfacing standards.*

(1) The director is authorized to permit portions of high turnover parking lots (including parking lot aisles), to meet the surfacing standards for low turnover parking lots (~~subsection §34-2017(b)(1), above~~) when the reduced surfacing standard will be used in those portions of the parking lot expected to receive the lightest usage, such as overflow or employee parking areas.

(2) This subsection ~~must~~ may not be construed ~~inconsistently in a manner inconsistent~~ with the Americans with Disabilities Act (ADA) of 1990.

(d) *No change.*

### **Sec. 34-2019. - Other use of parking lots.**

(a) ~~Designated surplus P~~parking spaces that are not in daily use and are located in parking lots having ten or more delineated parking spaces and meeting the other requirements of this division may be rented to the general public ~~during peak periods~~ provided that a use permit has been obtained. The use permit application must include:

~~(1) A survey of the subject property;~~

~~(2) An analysis of the required parking spaces utilizing § 34-2020 for required parking spaces by land use;~~

~~(3) A parking plan that includes the total number of parking spaces, the number of required parking spaces to accommodate existing uses of the subject parcel, and the number of designated surplus parking spaces provided;~~

~~(4) The parking plan must include the location of the designated surplus parking spaces and the methodology (such as parking block, signage, or pavement markings such as paint) of delineating the surplus parking spaces;~~

~~(5) Any signage advertising designated surplus parking spaces must be in conformance with the requirements of chapter 30.~~

(b)-(c) *No change.*

### **SECTION 2: 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 beheld invalid, then such provision will be null and void and will 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 3: CONFLICTS OF LAW.**

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 4: CODIFICATION AND SCRIVENER’S ERRORS.**

The Town Council intends that this ordinance will be made part of the Fort Myers beach Code of ordinances; and that sections of this ordinance can be renumbered or relettered and the word “ordinance” can be changed to “section”, “article” or some other appropriate word or phrase 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: EFFECTIVE DATE.**

This ordinance becomes effective immediately upon its adoption.

**THE FOREGOING ORDINANCE** was enacted by the Town Council upon a motion by Council Member \_\_\_\_\_ and seconded by Council Member \_\_\_\_\_ and, upon being put to a vote, the result was as follows:

Dennis Boback	_____
Joanne Shamp	_____
Tracey Gore	_____
Rexann Hosafros	_____
Anita Cereceda	_____

**DULY PASSED AND ENACTED** this \_\_\_\_ day of \_\_\_\_\_, 2017.

**ATTEST:**

**TOWN OF FORT MYERS BEACH**

By: \_\_\_\_\_  
Michelle Mayher, Town Clerk

By: \_\_\_\_\_  
Dennis C. Boback, Mayor

Approved as to form by:

By: \_\_\_\_\_  
Town Attorney

## GRADE LEVEL HOUSING

JAN 6, 2017

THIS INQUIRY ATTEMPTS TO DEFINE AND ANALYZE A HOUSING PROBLEM ON FORT MYERS BEACH. THE ISSUE BEING STUDIED IS THE CONSTRUCTION OF HABITABLE AREAS BELOW ELEVATED HOMES.

TO TRY TO EXAMINE THE SCOPE OF THE PROBLEM, I MET WITH KARA STEWART, MEGAN WILL, MOLLY JACOBS, AND DEPUTY FIRE CHIEF RON MARTIN OF THE FIRE DEPARTMENT.

### BACKGROUND

WE HAVE APPROXIMATELY 6500 HOUSING UNITS ON THE ISLAND. ABOUT HALF OF THESE ARE CONDOMINIUM UNITS. IT IS ESTIMATED THAT ABOUT 1500 UNITS ARE BUILT ON GRADE AND 1500 ARE ELEVATED. I CANNOT CONFIRM THESE NUMBERS COMPLETELY BUT BASED ON CENSUS DATA AND STAFF DISCUSSIONS, THEY APPEAR CREDIBLE.

THERE ARE ELEVATED SINGLE AND DUPLEX HOMES THAT HAVE NON-CONFORMING UNITS AT GRADE BUT HAVE BEEN GRANDFATHERED AND ARE CONSIDERED LEGAL NONCONFORMING IN OUR LAND DEVELOPMENT CODE. WE DO NOT HAVE AN EXACT NUMBER FOR THESE UNITS.

### CURRENT REGULATION

IN 2013 THE TOWN PASSED AN ORDINANCE REQUIRING NEW CONSTRUCTION DEVELOPERS TO "ACKNOWLEDGE " OUR FLOOD PLAIN REGULATIONS. A COPY IS APPENDED. THAT ACKNOWLEDGEMENT IS REQUIRED BY OUR BUILDING DEPT FOR PERMIT AND OCCUPANCY. OUR BUILDING DEPARTMENT DOES INSPECT NEW CONSTRUCTION TO VERIFY COMPLIANCE. THE REGULATION EXPLICITLY STATES " THAT FULLY ENCLOSED SPACE BELOW BASE FLOOD ELEVATION MAY BE USED ONLY FOR PARKING, BUILDING ACCESS AND STORAGE". IT FURTHER DECLARES THAT THE INTERIOR OF ANY ENCLOSED SPACE "SHALL NOT BE PORTIONED OR FINISHED INTO HABITABLE ROOMS."

WHILE THIS REGULATION DOES ALLOW MANDATED INSPECTION OF NEW CONSTRUCTION, EXISTING HOUSING CAN BE INSPECTED ONLY AFTER A COMPLAINT IS MADE AND THE OWNER ALLOWS THE INSPECTION. IN OTHER WORDS, INSPECTION IS VOLUNTARY. IT IS THEREFORE DIFFICULT FOR OUR CODE ENFORCEMENT STAFF TO IDENTIFY ILLEGAL CONSTRUCTION AND TAKE ACTION TO CORRECT CODE VIOLATIONS.

THE FIRE DEPARTMENT ADOPTED AN ORDINANCE MARCH 1 2016 WHICH MANDATES INSPECTION AND COMPLIANCE IN RENTAL UNITS. THIS ORDINANCE IS APPENDED. THESE "PERIODIC" INSPECTIONS FOLLOW A REQUIRED REGISTRATION OF ALL RENTAL UNITS.

"WITHIN 120 DAYS FROM THE EFFECTIVE DATE OF THIS ORDINANCE, ALL TRANSIENT, VACATION, SHORT TERM, TIMESHARE RENTALS AND NON-OWNER OCCUPIED TWO FAMILY HOMES SHALL BE REGISTERED WITH THE DISTRICT, TO ENSURE FIRE INSPECTIONS."

THERE ARE EXCLUSIONS FOR PROPERTIES WHICH ARE NOT ADVERTISED OR ARE OWNER OCCUPIED SINGLE FAMILY HOMES.

SINCE THIS ORDINANCE IS RELATIVELY NEW, WE DO NOT HAVE DATA ON HOW MANY UNITS HAVE BEEN INSPECTED OR THE RESULTS.

#### ANALYSIS

THE SCOPE OF THE PROBLEM IS NOT HUGE. WHILE ILLEGAL CONSTRUCTION CAN BE UNSAFE AND CAN BE PRONE TO FLOODING, ADDRESSING THE PROBLEM MIGHT BE COST PROHIBITIVE AND INEFFECTIVE. AN ILLEGAL UNIT CAN BE DISCOVERED AND THE PROBLEM MAY BE ABATED, FOLLOW UP MAY BE NECESSARY AND COMPLIANCE HARDER TO VERIFY OVER TIME.

ACCORDING TO MEGAN, OUR FEMA EXPERT ON STAFF, THE RELATIVELY SMALL NUMBER OF SUCH UNITS MAY NOT INFLUENCE OUR RATINGS.

THE ISSUE DOES HOWEVER IMPACT STAFF TIME AND WORK. THEY (MEGAN AND MATT) INDICATED THAT THEY SPEND 25% OF THEIR TIME RESPONDING TO PROSPECTIVE BUYERS OR NEW BUYERS ASKING ABOUT THE COMPLIANCE OF THEIR GROUND FLOOR UNITS. THEY EITHER HAD BEEN MISINFORMED OR MISUNDERSTOOD TO THINK THEY COULD RENT AND RENOVATE THE ILLEGAL GROUND FLOOR UNIT. THEY ARGUE THAT THEY WERE TOLD THE NUMBER OF BEDROOMS OR BATHS OR BOTH WERE OK AND PERMITTED.

INTERESTINGLY, THE DEPUTY CHIEF WHO CAME FROM INDIANA INDICATED TO ME THAT IN HIS JURISDICTION, A REALTOR IS NOT ABLE TO LIST OR SELL A HOME WITH A NUMBER OF BEDROOMS OR BATHS REPRESENTED UNLESS THAT NUMBER WAS VERIFIED BY A BUILDING PERMIT. IN OTHER WORDS IF A HOMEOWNER ADDED ELEMENTS OVER TIME WHICH WERE NOT INSPECTED AND APPROVED BY PERMIT, THEY COULD NOT INCLUDE THOSE ELEMENTS IN SALE OFFERINGS AND PRICE CALCULATION.

WHAT MIGHT BE OUR POSSIBLE OPTIONS?

FIRST, REGISTRATION WILL BE HELPFUL TO UNDERSTAND THE SCOPE OF THE PROBLEM.

SECOND, AS HAS BEEN ACKNOWLEDGED BY BOTH TOWN STAFF AND THE FIRE DEPT, INTERAGENCY COOPERATION SHOULD BE ENCOURAGED. TOWARDS THAT END WE SHOULD ASK BOTH OUR CODE STAFF AND THE FIRE DEPT TO DISCUSS THEIR EFFORTS IN MORE DETAIL. BOTH ARE VERY WILLING TO COME BEFORE THE LPA AND/OR COUNCIL AND PRESENT IDEAS.

HANK ZUBA

**ORDINANCE NO: 2016-**

**A FIRE SAFETY ORDINANCE OF THE BOARD OF FIRE COMMISSIONERS FOR THE FORT MYERS BEACH FIRE CONTROL DISTRICT, LEE COUNTY, FLORIDA, FOR THE PURPOSES OF PROTECTING THE LIFE AND PROPERTY OF THOSE PARTIES THAT OCCUPY, OWN, AND RESIDE IN TRANSIENT, VACATION, SHORT TERM, TIMESHARE RENTALS; ALONG WITH, NON-OWNER OCCUPIED TWO FAMILY HOMES, AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Fort Myers Beach Fire Control District referred to as the “District” finds it necessary that Transient, Vacation, Short-Term, and Timeshare rentals; along with, Non-owner occupied Two Family Homes register with, and receive periodic Fire Inspections from the District, for the purpose of saving lives and preserving property.

**WHEREAS**, this Ordinance is in compliance with the Florida Fire Prevention and Control Act Florida Statute Chapter 633, Florida Administrative Code 69A, Florida Statute 509.215, Florida Statute 553.75(13), and the Florida Fire Prevention Code.

**WHEREAS**, The District has the authority to enact Ordinances related to the Prevention of Fires and Preservation of Property (CH 2000-422).

**NOW THEREFORE**, be it ordained by the Board of Fire Commissioners for the Fort Myers Beach Fire Control District that:

**SECTION ONE: PURPOSE OF THIS FIRE SAFETY ORDINANCE**

It is the intention of the District that all Transient, Vacation, Short-Term, Timeshare rentals, and Non-Owner Occupied Two Family Homes register with the District, to ensure periodic Fire Inspections.

**SECTION TWO: REGISTRATION**

Within (120) days from the effective date of this Ordinance, all Transient, Vacation, Short-Term, Timeshare Rentals, and Non-Owner Occupied Two Family Homes shall be registered with the District and provide the following:

- Full legal name and contact information for the Property Owner/Local Responsible Party to include, Telephone Number, Mailing Address, E-Mail contact.
- Property Owner/Responsible Party will be reasonably available via phone, e-mail, or in person within (72) hours of a District request.
- It shall be unlawful for any owner, agent, or realtor to rent any occupancy as defined herein that is not registered with the Fire District

**SECTION THREE: DEFINITIONS**

Verbiage contained herein shall have the following meanings:

- **Transient Rentals:** Single family or Two-family homes which are rented to guests more than *(3) times a calendar year for less than (30) days or (1) calendar month.*
- **Vacation Rentals:** Single family or Two-family homes that meet the definition of a Transient Rental advertised as a Vacation Resort, Rental, or Home.
- **Timeshare Rentals:** Single-family or Two-family homes that are licensed per *FS Chapter 721*, which are advertised as Transient Rental.

**SECTION FOUR: POSTING AND INSPECTION REQUIREMENTS**

Properties, as defined, shall comply with the following posting and inspection requirements:

- Occupant Load Signage
- Properties shall be made available for Fire Inspection, upon (30) day notice from the District
- Fire Code Violations that are imminent hazards shall be abated within (72) hours.
- All other violations shall be abated within (45) days; this abatement period may be extended at the request of the owner if a mitigation plan is submitted and accepted by the District.

**SECTION FIVE: FEES**

Fees shall include but not limited to the following:

- Registration Fee of (\$25.00)
- Inspection and re-inspection fees as defined by the District's Schedule of Fees

**SECTION SIX: SCHEDULE A: PENALTY FOR NON-COMPLIANCE**

Parties in violation of this Ordinance shall face penalties as outlined in this section.

FIRST OFFENSE: WRITTEN WARNING TO ADDRESS ON RECORD VIA  
CERTIFIED MAIL

SECOND OFFENSE: \$250.00 FINE IMPOSED UPON PROPERTY OWNER  
WITH A LETTER OF NON-COMPLIANCE

THIRD OFFENSE: \$500.00 FINE IMPOSED UPON PROPERTY OWNER

FOURTH OFFENSE: NOTIFICATION TO THE DIVISION OF BUSINESS AND  
PROFESSIONAL REGULATION

**SECTION SIX: EXCLUSIONS**

The Following properties are excluded from this Ordinance

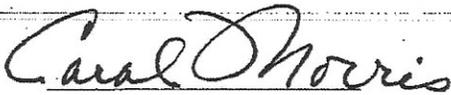
- All Homes, not advertised to the public as a Transient, Vacation, Short-Term, or Timeshare rental.
- Two Family Homes where the Owner occupies one unit for a minimum of (6) Months per year.
- Those properties that receive routine fire inspection in compliance with the Florida Fire Prevention Code i.e. *Hotels/Motels, Condominiums, Apartment Complexes (3 units or more)*.
- Single Family Homes that are Owner occupied.

**SECTION SEVEN: SEVERABILITY**

If any portion of this Ordinance is declared invalid by a court of competent jurisdiction, the valid remainder hereof shall remain in full force and effect.

**SECTION EIGHT: EFFECTIVE DATE**

The effective date of this Ordinance shall be March 1, 2016.



\_\_\_\_\_  
Carol Morris-Chair

December 15, 2015  
Date First Reading

January 10, 2016  
Published

February 2, 2016  
Second Reading/Public Hearing Date



# Town of Fort Myers Beach

## ACKNOWLEDGEMENT OF FLOODPLAIN REGULATIONS

This ACKNOWLEDGEMENT OF FLOODPLAIN REGULATIONS is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_ ["Owner(s)"] of property legally described in proof of ownership, attached hereto and made a part hereof.

WHEREAS, the owner in the record owner of all the real property described in attached proof of ownership, located in the Town of Fort Myers Beach in Lee County, Florida.

WHEREAS, the Owner has applied for a building permit on this property to place or improve a residential structure that contains a fully enclosed space below the base flood elevation (permit number: \_\_\_\_\_).

WHEREAS, the owner agrees to the recording of this acknowledgement in the public records of Lee County and acknowledges that the following floodplain regulations are legally in force to the affected property, and that these floodplain regulations, as they may be amended from time to time, will affect the rights and obligations of the Owner and shall be binding on the Owner, their heirs, personal representatives, successors, or assigns.

I (WE) HEREBY ACKNOWLEDGE THE FOLLOWING:

1. The structure or part thereof to which these regulations apply, whose legal description is identified in attached proof of ownership, is located at: \_\_\_\_\_, Fort Myers Beach, Florida 33931, and is currently identified by Lee County as Strap # \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ -W \_\_\_\_\_ - \_\_\_\_\_.
2. The FEMA Flood Insurance Rate Map (FIRM) has identified this location as a Zone \_\_\_\_\_, with a base flood elevation of \_\_\_\_\_ feet (NAVD) above mean sea level according to the FIRM dated \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.
3. The floodplain regulations of the Town of Fort Myers Beach require that fully enclosed space below the base flood elevation may be used only for parking, building access, and storage; electrical, plumbing, and other utility connections are permitted below the base flood elevation per Land Development Code § 6-472; the interior shall not be portioned or finished into separate habitable rooms; all structural and non-structural components must use materials that are resistant to flood forces and deterioration caused by repeated inundations; and walls must be designed to allow for the entry and exit of floodwaters to equalize hydrostatic flood forces.
4. Any unauthorized alterations or changes from the permitted improvements shall constitute a violation of the Fort Myers Beach Land Development Code, and may also render the structure uninsurable. The Town of Fort Myers Beach may take any legal action, including but not limited to the forced removal of said alterations, to correct any violations.

In witness whereof, I (we) set our hands this this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Signature of Property Owner #1

\_\_\_\_\_  
Signature of Property Owner #2

\_\_\_\_\_  
Printed Name of Property Owner #1

\_\_\_\_\_  
Printed Name of Property Owner #2

Notary for Owner #1

Notary for Owner #2

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ )

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ )

Subscribed and sworn to (or affirmed) before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_

Subscribed and sworn to (or affirmed) before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_

(SEAL)

Notary Public Signature

\_\_\_\_ Personally Known \_\_\_\_ Produced Identification

(SEAL)

Notary Public Signature

\_\_\_\_ Personally Known \_\_\_\_ Produced Identification

RESOLUTION OF THE HISTORIC PRESERVATION BOARD OF  
THE TOWN OF FORT MYERS BEACH, FLORIDA  
RESOLUTION NUMBER HPB 2006-03

A RESOLUTION OF THE HISTORIC PRESERVATION BOARD OF FORT MYERS BEACH, FLORIDA:

WHEREAS, the Local Planning Agency of the Town of Fort Myers Beach, Florida, serves as the historic preservation board for the Town of Fort Myers Beach ("HPB") pursuant to Chapter 22, Article II, Division 2, Section 22-71 and Chapter 30, Section 30-56(b) of the Land Development Code ("LDC") of the Town of Fort Myers Beach; and

WHEREAS, the HPB is vested with the power, authority and jurisdiction to designate, regulate and administer historical, cultural, archaeological, and architectural resources in the Town, pursuant to LDC Section 22-71; and

WHEREAS, the HPB has the power and duty to designate eligible historic resources, evaluate the significance and eligibility of historic resources for designation pursuant to Chapter 22 of the LDC, increase awareness of historic preservation and its community benefits by promoting public education programs, and administer programs aimed at the proper recognition of designated historic resources pursuant to Section 22-74 of the LDC; and

WHEREAS, the HPB has the power to create an advisory committee to assist the HPB with historic preservation matters and to charge such committee with various and sundry duties; and

WHEREAS, this advisory committee will have no quasi-judicial or legislative powers but rather will function in an informal advisory capacity to the HPB; and

WHEREAS, the advisory committee will be subject to the Sunshine and Public Records Laws of the State of Florida.

NOW, THEREFORE BE IT RESOLVED BY THE HISTORIC PRESERVATION BOARD OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS:

The Historic Preservation Board does hereby create the Fort Myers Beach Historical Advisory Committee (FMBHAC), with the following restrictions:

1. The FMBHAC shall be subject to the Sunshine and Public Records Laws of the State of Florida.
2. The FMBHAC will be comprised of seven (7) members appointed by the HPB, all of whom shall be residents, business owners, or property owners within the Town of Fort Myers Beach.

3. Three (3) members of FMBHAC shall be current members of the HPB and four (4) members shall be appointed by the HPB after due consideration of recommendations by the Estero Island Historic Society.
4. The FMBHAC shall meet on an as-needed basis, keep its own minutes, and hold all meetings at Town Hall.
5. The HPB shall appoint all initial members of FMBHAC no later than the first meeting of the HPB in October, 2006. Thereafter, commencing with June, 2007, the HPB shall appoint all members of FMBHAC on an annual basis at the first meeting of the HPB in June.

The foregoing Resolution was adopted by the Historic Preservation Board upon a vote following motion by Board member Tom Babcock and second by Board member Bob Raymond, the result of which was as follows:

Tom Babcock	aye
Randy Brown	aye
Rochelle Kay	absent
Larry Kiker	aye
Alan Mandel	aye
Bob Raymond	aye
Bob Simon	absent

DULY PASSED AND ADOPTED THIS 12<sup>th</sup> day of September, 2006.

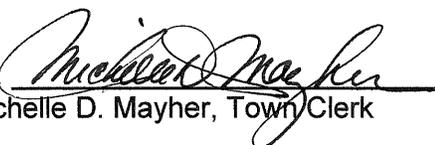
HISTORIC PRESERVATION BOARD OF THE  
TOWN OF FORT MYERS BEACH

By:   
Larry Kiker, Chair

Approved as to legal sufficiency:

By:   
Anne Dalton, Esquire  
HPB/LPA Attorney

ATTEST:

By:   
Michelle D. Mayher, Town Clerk

<b>HAC Chair</b>	Bassett	A J	not exempt
<b>HAC</b>	Plummer	Jane	not exempt
<b>HAC</b>	Santini	Fran	
<b>HAC</b>	Shamp	Joanne	not exempt
<b>HAC</b>	Meeder	Linda	
	Kakatsch	John	<b>EXEMPT</b>
<b>HAC</b>	Durrett	Al	not exempt