

RESOLUTION NO.17-06

**A RESOLUTION OF THE FORT MYERS BEACH TOWN
ADOPTING ADMINISTRATIVE CODE 1-3, APPEAL PROCESS
FOR PERSONS ISSUED TRESPASS NOTICE ON TOWN OF
FORT MYERS BEACH PROPERTY; PROVIDING FOR
SEVERABILITY AND AN EFFECTIVE DATE.**

WHEREAS, the Fort Myers Beach Town Council is the governing body in and for the Town of Fort Myers Beach, a municipality of the State of Florida, County of Lee; and

WHEREAS, the Town of Fort Myers Beach is a charter municipality incorporated on December 31, 1995 pursuant to Laws of Florida chapter 95-494, adopted in July 1995; and

WHEREAS, Town Charter sections 10.01 and 10.03 provide for the adoption of administrative provisions by Resolution of the Town Council; and

WHEREAS, certain amendments to the Town of Fort Myers Beach Administrative Code are now being proposed and the Town Council finds that the proposed amendments are acceptable, serve a public purpose, and are consistent with the terms and conditions of the Town Charter.

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

1. The above recitals are true and correct and incorporated herein as though fully set forth below.
2. The proposed amendment to Town of Fort Myers Beach Administrative Code 1-3 (attached as Exhibit A) are approved and are hereby directed to be incorporated into the Town of Fort Myers Beach Administrative Code as indicated in the amendments.
3. The provisions of this Resolution are severable, and it is the intention to confer to the whole or any part of the Resolution, the powers herein provided. If any provisions of this Resolution are held unconstitutional by any court of competent jurisdiction, the decision of the court will not affect or impair any of the remaining provisions of this Resolution. It is hereby declared to be the Town Council's legislative intent that this Resolution would have been adopted had such unconstitutional provision not been included.
4. This Resolution becomes effective immediately upon its adoption by the Town Council.

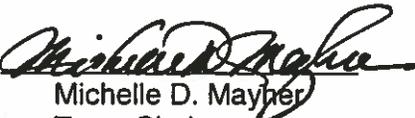
Council Member Cereceda made a motion to adopt the foregoing Resolution, seconded by Vice Mayor Gore. The vote was as follows:

Dennis Boback	aye
Tracey Gore	aye
Bruce Butcher	aye
Anita Cereceda	aye
Joanne Champ	aye

DULY PASSED AND ADOPTED THIS 3rd day of April, 2017.

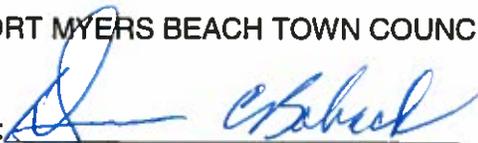
ATTEST:

By:


Michelle D. Mayher
Town Clerk

FORT MYERS BEACH TOWN COUNCIL

By:


Dennis C. Boback, Mayor

Approved as to Form:

By:


Town Attorney

Exhibit A



Town of Fort Myers Beach Administrative Code 1-3 Appeals Process for Trespass Notices

PURPOSE:

This Administrative Code includes the appeals process for trespass notices issued by the Lee County Sheriff's Department.

1. Every person cited for trespass shall be informed of these procedures by the law enforcement officer issuing the citation.
2. These procedures shall be posted in the public information area in the lobby of Town Hall, 2525 Estero Boulevard, Fort Myers Beach, Florida 33931.
3. Any appeal must be filed during regular business hours with the Town Clerk.
4. Any appeal must be in writing and contain either a copy of the citation or its number, the name of the person cited, that person's address, if any; a telephone number, if any, or a local address or email address at which the cited person may be contacted.
5. This writing must be filed with the Town Clerk within ten (10) days of the date of issuance of the trespass notice.
6. There is no fee to file this appeal.
7. The Town Clerk shall within one (1) business day inform the Code Enforcement Hearing Master of the filing of an appeal.
8. The Hearing Master shall within five (5) days of receiving notice of the appeal schedule a hearing. The Hearing Master shall notify the Appellant by telephone, if any or by email, if any; or by posting notice in the lobby of Town Hall.
9. Said hearing shall be conducted at Town Hall and shall be scheduled within thirty (30) days of the date of the filing of the appeal.
10. At the hearing; the Town or Appellant may be represented by legal counsel; may call witnesses; may cross examine any witness and present evidence. Any party may utilize a court reporter at that party's sole expense.

11. While formal rules of evidence shall not apply, the Hearing Master shall assure that fundamental fairness is afforded all parties.
12. The Town shall be held to a “clear and convincing” evidence standard.
13. The Hearing Master shall issue a decision and opinion within five (5) days of the hearing.
14. Said decision is final and concludes the administrative process. Any further appeal is as provided by law.
15. Should the appellant fail to appear at the scheduled date and time for the hearing, the Hearing Master, after establishing that notice was given shall review the evidence available and issue a decision and opinion as to whether the citation was properly issued.
16. Pending the completion of the appeal process and any further judicial review, the trespass notice remains in effect.