

**ORDINANCE NO. 23-01**

**AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING CHAPTER 30 OF THE LAND DEVELOPMENT CODE OF THE TOWN OF FORT MYERS BEACH ENTITLED "SIGNS" TO PROVIDE FOR CONTENT NEUTRAL SIGN REGULATIONS AND TO ALLOW CERTAIN PORTABLE SIGNS, PROVIDING FOR SEVERABILITY; CODIFICATION; SCRIVENER'S ERRORS; CONFLICTS OF LAW AND AN EFFECTIVE DATE.**

**WHEREAS**, 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 service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

**WHEREAS**, Article X of the Town Charter of the Town of Fort Myers Beach 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 Town of Fort Myers Beach, Florida ("Town") recognizes that an excess of signs causes a visual blight on the appearance of the town by detracting from views of structures and open space; and

**WHEREAS**, the Town also recognizes that 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 reasonable regulation of existing and proposed signs is necessary to protect both its economy and the quality of life of its residents; and

**WHEREAS**, the Town Council desires to update the Fort Myers Beach Sign Code in the Land Development Code to clarify, improve, and create consistency among sections; and

**WHEREAS**, a public hearing was held before the Local Planning Agency (LPA) on December 6, 2022, at which the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the record, and the testimony of all interested persons, and the LPA voted 5-0, with two members absent, to recommend approval of the requested amendment to Chapter 30. Signs; and

**WHEREAS**, on January 9, 2023, the Town Council held a first reading of this proposed Ordinance; and

**WHEREAS**, on January 23, 2023, the Town Council held a second reading of this proposed Ordinance.

**NOW THEREFORE IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH, FLORIDA:**

Section 1. The above recitals are true and correct, and incorporated herein by this reference and are hereby adopted as the legislative and administrative findings of the Town Council.

Section 2. Chapter 30 of the Land Development Code of the Town of Fort Myers Beach entitled "Signs" is hereby amended to read as found in attached Exhibit A – New Sign Ordinance:

Section 3. The Town Council intends that the provisions of this ordinance be made a part of the Fort Myers Beach Code of Ordinances, and that sections herein may be renumbered or re-lettered and the words or phrases herein may be changed to accomplish codification; regardless, typographical errors that do not affect intent may be corrected with notice to and authorization of the Town Manager without further process.

Section 4. Whenever the requirements or provisions of this ordinance conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive shall apply.

Section 5. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason, declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision will not affect the validity of the ordinance, or any part thereof, other than the part so declared.

Section 6. This ordinance shall become effective upon adoption by the Town Council.

The foregoing Ordinance was adopted by the Town Council upon a motion by Vice Mayor Atterholt and seconded by Council Member King and upon being put to a roll call vote, the result was as follows:

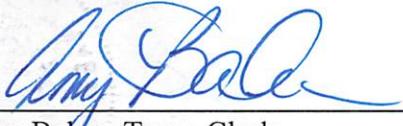
Dan Allers, Mayor	aye
Jim Atterholt, Vice Mayor	aye
John R. King, Council Member	aye
Bill Veach, Council Member	aye
Karen Woodson, Council Member	aye

ADOPTED this 23<sup>rd</sup> day of January 2023, by the Town Council of the Town of Fort Myers Beach, Florida.

**TOWN OF FORT MYERS BEACH**

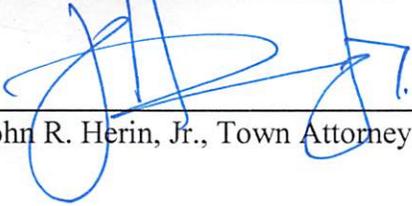
  
Dan Allers, Mayor

**ATTEST:**



\_\_\_\_\_  
Amy Baker, Town Clerk

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE  
AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:**



\_\_\_\_\_  
John R. Herin, Jr., Town Attorney

This Ordinance was filed in the Office of the Town Clerk on this 23<sup>rd</sup> day of January 2023..

## **Chapter 30 - Signs**

### **Sec. 30.1. Purpose, intent and application.**

The town council finds and declares the following intent for this chapter:

- (1) 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.
- (2) The purpose of this chapter is to encourage signs which are integrated with and harmonious to the building 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.
- (3) This chapter provides minimum standards to safeguard life, safety, property, and public welfare by regulating size, construction location, electrification, operation and maintenance of all signs and sign structures exposed to public view within the town. These standards are content-neutral and regulate based on the form, and not the content, of signs. The visual appearance and traffic safety of the town cannot be achieved by measures less restrictive than the procedures and standards of this chapter.
- (4) It is the intent of the town council that protection of First Amendment rights shall be afforded by these sign regulations. The regulations in this Section are not intended to regulate or censor speech based on its content or viewpoint, but rather to regulate the secondary effects of speech that may adversely affect the Town's substantial and compelling governmental interests in preserving scenic beauty and community aesthetics, and in vehicular and pedestrian safety in conformance with the First Amendment. Accordingly, any sign, display or device permitted under these regulations may contain, in lieu of any other copy, any otherwise lawful noncommercial message that complies with all other requirements of this code. The noncommercial message may occupy the entire sign area or any portion thereof and may substitute for or be combined with the commercial message. The sign message may be changed from commercial to noncommercial, or from one noncommercial message to another, as frequently as desired by the sign's owner, provided that the sign is not prohibited and the sign continues to comply with all requirements of this code.

These regulations shall apply to the erection and maintenance of signs visible, from the exterior of a building, while preserving the right of free speech and expression. The regulations within this chapter shall apply to all construction, relocation, enlargement, alteration and modification of signs within the Town of Fort Myers Beach. Generally, signs are approved by issuance of a sign permit. However, there are some signs that do not require a permit, these signs are listed in Section 30-4. Exempt Signs.

Noncommercial signs are allowed in all districts and may be substituted for any sign expressly allowed under this ordinance, and any sign permitted by this ordinance may display a noncommercial message. Noncommercial signs are subject to the same permit requirements, restrictions on size and type and other conditions and specifications as apply to the sign for which they are being substituted.

Nothing contained in this section shall be construed to permit the display of signs when otherwise prohibited or restricted by private restrictions or covenants not enforced by the Town.

### **Sec. 30.1. – Generally.**

- (1) The following regulations apply generally to all signs and are in addition to the regulations contained elsewhere in this chapter:
  - (a) *Required application and inspection of signs.* No sign, other than signs not requiring a permit, found in Section 30-4. Exempt Signs, shall be erected, constructed, structurally altered or relocated until a permit has been issued by the Town.
    1. Sign work not requiring a permit or inspection includes:
      - a. Change of copy. Changing the face or copy on existing signs.
      - b. Maintenance. Painting, cleaning, or other normal maintenance and repair for a sign not involving structural or electrical changes.
      - c. Window displays. Changes in the content of window displays or window signage, provided all such displays are within the building and any signage does not exceed 25 percent of the window.
      - d. This chapter shall not apply to any sign erected by the federal, state, county, or Town of Fort Myers Beach government or to the placement of temporary signs not exceeding eight square feet in area 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.
  - (b) *Electrical permit.* All signs which require electricity or are electrically illuminated shall require a separate electrical permit and an inspection.
  - (c) *Construction standards.* In addition to complying with the requirements of this chapter, all signs must meet the structural and other standards regarding sign construction, erection, electrical wiring, etc., set forth in the Florida Building Code. Plans for any or monument sign exceeding 32 square feet in area or eight feet in height shall be accompanied by foundation drawings signed and sealed by a licensed engineer.
  - (d) *Visibility triangle and location standards.* All signs must meet the visibility requirements found in Section. 34-3131 of this land development code. Signs may not be placed within the Town's right of way, any sign which encroaches the right of way must provide liability insurance per Section 30-13 Liability Insurance.

### **Sec. 30-3. Definitions.**

- (1) 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.
- (2) 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:

*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., a reader board with changeable letters, is not an alteration.

*Animated sign.* Any sign, including electronic, laser, video or digital displays, that uses movement or change of lighting to depict action or create a special effect or scene. Electronic message boards, electronic changing message centers, and any signs with flashing lights are considered to be animated signs.

*Awning sign.* Any sign consisting of letters which are painted or installed on a lawful awning, but not including a back-lit awning.

*Back-lit awning.* An awning with a translucent covering material and a source of illumination contained within its framework.

*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.

*Banner.* A temporary sign of flexible plastic, cloth, or other fabric, either enclosed or not enclosed in a rigid frame that is secured or mounted to allow movement caused by the atmosphere, including "streamer" and "pennants" but not including flags.

*Bench sign.* A sign that is painted on or attached to any part of a bench, seat, or chair placed on or adjacent to a public street, public plaza or beach access.

*Building identification or address.* The building number assigned by Lee County as the official premises address, painted or affixed to a building, mailbox or similar structure.

*Building official.* Means the authorized agent or employee of the city whose duty it is to enforce and interpret the construction codes of the city.

*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, on, or below a canopy.

*Civic District.* For the purposes of this chapter, civic districts shall mean a property in Community Facilities or Institutional zoning districts.

**Commercial District.** For the purposes of this chapter, commercial districts shall mean a property in Downtown, Santini, Commercial Office, Commercial Marina, Commercial Resort, Santos or Commercial Boulevard zoning districts.

**Development identification sign.** A permanent sign, which is either a freestanding sign or a sign located on a subdivision entry feature or perimeter wall, at a main entrance to a subdivision or development, identifying the name of the development or subdivision.

**Directional sign.** Any sign which serves solely to designate the location of or direction to any place, activity, facility, or area.

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

**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.

**Flag.** Any fabric or bunting used as a symbol (as of a nation, government, political subdivision or other entity) or as a signaling device.

**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 by or on the order of a public official or court in the performance of a public duty or to give notice of permit or pending action or to maintain order and safety.

**Illuminated sign.** Any electrically operated sign or sign for which an artificial light source is used to make the sign's message visible, including internally and externally illuminated signs and reflectorized, glowing, or radiating signs.

**Incidental sign.** A sign, generally informational, that has a purpose that is secondary to the use of the site on which it is located, such as "No Parking," "Entrance," "Exit," "Telephone," "Open," "Beware of Dog," "No Trespassing" "Welcome," and other similar directives.

**Inflatable object.** An object of any shape that is expanded or capable of expansion by means of air or gas, such as a balloon, windsock, or air tube, and which is used as a means of attracting attention to a site, product or event.

**Licensed contractor.** A person holding a valid contractor's license issued by the Lee County Construction Board.

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

**Display box.** A plaque or display case, located on an exterior building wall, near its entrance for the convenience of potential patrons who arrive on foot.

*Monument sign.* A freestanding sign supported primarily by an internal structural framework or integrated into landscaping or other solid structural features other than support poles

*Parasite sign.* Any sign not exempted by this chapter, for which no permit has been issued, and which is hung from, attached to or added onto an existing sign.

*Permit board.* A sign erected on a construction site for the sole purpose of providing a conspicuous display of and shelter for the permits required for construction activities being performed on such construction site.

*Pole sign.* A freestanding 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. A freestanding sign that meets this chapter's requirement for a monument sign is not considered to be a pole sign.

*Portable sign.* Any non-illuminated sign that is carried or worn.

*Projecting sign.* A sign which is attached to a building and projects more than 18 inches above, below, or outward from, and is supported by, a wall, parapet, or ceiling of a building.

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

*Residential Districts.* For the purposes of this section, residential districts shall mean a property in Residential Single-Family, Residential Conservation, Residential Multifamily, Bay Beach or Village zoning districts.

*Residential sign.* Any non-illuminated sign not otherwise defined or regulated in this chapter, that is located in a residential district.

*Roof sign.* Any sign erected upon a roof or roof-mounted equipment. Signs placed flat against the steep slope of a mansard roof will not be considered roof signs.

*Sandwich-board 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.

*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 or convey a message 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 nonstructural trim exclusive of the supporting structure.

*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 located or situated on a public road right-of-way, or any sign which is installed on property without the permission of the property owner.

*Temporary sign.* A sign or banner displayed for a fixed, terminable length of time. Temporary signs are intended to be removed after the temporary purpose has been served.

*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 approximately parallel to the plane of said wall.

*Window sign.* Any sign viewable through, affixed to or painted on 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.

#### **Sec. 30-4. Exempt Signs**

- (1) Signs not requiring a permit. The following signs do not require a sign permit but may require a building permit or electrical permit (if subject to building or electrical codes). Signs listed in this section do not require a sign permit but shall still comply with the standards found in section Sec. 30-7. Construction and Maintenance Standards. All signs not requiring a sign permit shall comply with the associated size, timing and location standards listed in this section (30-4. – Exempt Signs) or shall require a permit, see 30-4(2).
  - (a) *Building identification or address*, as required for public safety, shall be located at all primary building entrances and on the mailbox. Numbers and letters shall be of a size visible from the street, between three and eight inches in height unless required to be larger for visibility by emergency services (buildings more than 50 feet from the road must be between eight and 18 inches in height). Building identification or addresses may be located on awnings.
  - (b) *Directional or instructional signs or symbols*, such as entrance, exit, caution, slow, direction arrows, etc. located on and pertaining to a parcel or development and not to exceed four square feet in area or containing any advertising.
  - (c) *Flags*, that are affixed to a flagpole or building mounted flagpole. Flagpoles may require building permits.
  - (d) *Government or public information signs*, any sign erected by or on the order of a public official or court in the performance of a public duty or to give notice of permit or pending action.
  - (e) *Incidental Signs or Signs of minimal area*,
    1. Signs, on a building or structure, which do not exceed two square foot in area and are not illuminated. Limited to two per parcel or lot.
    2. Signs on machines, equipment, fences, gates, walls, gasoline pumps, public telephones or utility cabinets which do not exceed a total of one square foot in area. Limited to two per parcel or lot.
  - (f) *Display boards*, display not to exceed four square feet and of a font size that is legible to a pedestrian.
  - (g) *Parking space signs*, including those in compliance with the Americans with Disabilities Act and other parking signs including, but not limited to, handicapped

parking, reserved parking, compact car spaces, expectant mother parking and parking for pickup orders. Not to exceed three square feet per parking space or meeting ADA requirements. The parking space sign must be posted at the parking space identified for that purpose.

- (h) *Permit board.* A freestanding device erected on a construction site for the sole purpose of providing a conspicuous display of and shelter for the permits required for construction activities being performed on such construction site. A permit board may display a contractor name or logo so long as such display does not exceed one square foot.
  - (i) *Portable signs.* Any portable sign, not to exceed six square feet.
  - (j) *Posted property signs.* Posted property signs, not to exceed 1½ square feet in area per sign and not exceeding two in number per lot. Such signs shall not be illuminated, and they shall not project over any public right-of-way.
  - (k) Sandwich boards,
    - 1. As permitted by subsections 27-51(e)(4) and (5) for PWVL and PAL businesses.
    - 2. Located within commercial zoning districts only. One sandwich board sign, not exceeding 36 inches in height and 24 inches in width, may be located in front of each tenant space. Sandwich boards may not be placed within the right of way and must maintain at least 36 inches of walking space within pedestrian paths.
  - (l) *Residential signs,* residentially zoned properties are allowed one non-illuminated ground or wall sign, not to exceed four (4) square feet in area. Freestanding signs may be no more than three (3) feet above grade. Signs may be no closer than 10 feet to a street property line and no closer than 7.5 feet to a side property line. The sign must not violate the visibility requirements of § 34-3131. Signs used for the purpose of supporting an event shall be removed within seven (7) days after the event has concluded.
  - (m) *Tow away zone signs,* erected pursuant to and in compliance with F.S. § 715.07.
  - (n) *Waterway signs,* directional signs along inland waterways.
  - (o) *Window signs or information displayed on a window,* may not exceed 30 percent of the area of a window.
- (2) The owner or tenant of any property containing a sign which appears to be out of compliance with these above regulations may be required to submit an application for the sign in question. If the sign is in compliance with the above regulations for signs not requiring a permit, Section 30-4. Exempt Signs, the sign will be allowed to remain and no permit fee charged. If the sign is found to be out of compliance with Section 3-4. Exempt Signs, it will be reviewed per the appropriate regulations.

#### **Sec. 30-5. Permitted Signs.**

- (1) Commercial Districts. For the purposes of this section, commercial districts shall mean a property in Downtown, Santini, Commercial Office, Commercial Marina,

Commercial Resort, Santos, or Commercial Boulevard zoning districts. The following signs shall be permitted:

(a) *Permanent signs* shall comply with the following regulations and limitations:

1. Size.

- a. For a parcel of land containing one or two business establishments, each separate business establishment shall be allowed a maximum of 32 square feet of sign area.
- b. For a parcel of land containing three or more business establishments, each establishment shall be allowed a maximum of 16 square feet of sign area. An additional 32 square feet of sign area may be utilized to identify the commercial development.
- c. The maximum sign area provided herein may be allocated among a combination of allowable sign types.

2. Location and Design.

- b. Internal lighting. Buildings that are required to meet the commercial design standards in § 34-991-1010, shall not install internally lit box signs (see Figure 30-1). 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. An opaque background panel must be used so that the internal light only passes through the letters or symbols. This requirement also applies to all signs with changeable copy.

a. Wall Signs

- i. A wall sign shall not extend above the lowest edge of the building's eaves or above the highest horizontal members of the fence or wall to which it is attached.
- ii. Wall signs may extend over public sidewalks provided they maintain a minimum clear height above sidewalks of eight feet and do not extend closer than two feet to an existing or planned curb and provide appropriate liability insurance in compliance with Sec. 30-13.

d. Monument signs

- i. The sign must be on private property and no portion extending beyond the property line.
- ii. The sign may be no closer than three feet to any side property line.
- iii. Height. The total height may not exceed five feet above finished grade, not measured from berms or raised landscaping beds.

- iv. Must be set back at least three feet from any public right-of-way or roadway easement; provided, however, that monument signs may be located in a lawfully developed landscaped median strip that is within a public or private right-of-way or easement where the holder(s) of the right-of-way or easement have consented to the location of the monument sign in such right-of-way or easement. Monument signs located in such median strips must be set back a minimum of two feet from the edge of the pavement and must not violate the visibility requirements of § 34-3131.

e. Projecting Signs

- i. A projecting sign shall not extend more than three feet above the lowest edge of the building's eaves.
- ii. A projecting sign may extend over public sidewalks provided they maintain a minimum clear height above sidewalks of eight feet and do not extend closer than two feet to an existing or planned curb.

(b) *Temporary signs*, a sign or banner, not exceeding 30 square feet, may be permitted on any property with an approved special event or as allowed by temporary sign permit.

- 1. Temporary signs must meet the same setback requirements as a monument sign, if freestanding, or a wall signs, if attached to a building, and must not violate the visibility requirements of § 34-3131.
- 2. Temporary signs are permitted for no more than 60 days annually.

(c) *Exempt signs*, as described in Section 30-4 in this sign ordinance.

(2) Residential Districts. For the purposes of this section, residential districts shall mean a property in Residential Single-Family, Residential Conservation, Residential Multifamily, Bay Beach or Village zoning districts. The following signs shall be permitted:

(a) *Permanent signs*. Each entrance to a development or subdivision may be permitted a single monument sign or up to two single-faced signs, one on each side of the entrance. The sign(s) shall be in compliance with the size and location requirements as well as all limitation.

1. *Size and Location*.

- a. The face of each permitted main entrance sign shall not exceed 25 square feet and shall not exceed five feet above finished grade, not measured from berms or raised landscaping beds.
- b. A monument sign.
  - i. If located in the median strip of the entrance. The sign must be 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.

- c. One or two single-faced signs, equal in size, and located on one or both sides of the entranceway.
  - i. Must be set back a minimum of 5 feet from any property lines and the edge of pavement.

2. *Limitations and Design.*

- a. The condominium, subdivision or development shall have a property owners' association or similar entity which will be responsible for the maintenance of the sign.
- d. The sign should be incorporated into entrance features such as art, a wall or landscaping.

(c) *Exempt signs*, as described in Section 30-4 in this sign ordinance.

(3) Civic Districts. For the purposes of this section, civic districts shall mean a property in Institutional or Community Facility zoning districts. The following signs shall be permitted:

(a) *Permanent signs* shall comply with the following regulations and limitations:

1. *Size and Limitations.*

- a. For a parcel of land containing a single civic use the maximum allowable sign area shall be 25 square feet.
- b. Each additional civic use: baseball field, recreation center, swimming pool, annex, etc. may be allowed up to 16 additional square feet of signage.
- c. Maximum height of any monument sign shall not exceed five feet above finished grade, not measured from berms or raised landscaping beds.
- d. The maximum sign area provided herein may be allocated among a combination of allowable sign types.

2. *Location.*

- a. Any sign shall be set back 5 feet from any property line.

(b) *Temporary signs*, a sign or banner, not exceeding 30 square feet, may be permitted on any property with an approved special event or as allowed by a temporary sign permit.

- 1. Temporary signs may be no closer than 5 feet to any property line. The sign must not violate the visibility requirements of § 34-3131.
- 2. Temporary signs are permitted for no more than 60 days annually, provided, however, temporary signs used for the purpose of supporting an event shall be removed within seven (7) days after the event has concluded.

- (c) *Exempt signs*, as described in Section 30-4 in this sign ordinance.

**Sec. 30-6. Measuring Signs.**

- (1) Measuring sign area. Sign area shall be calculated in the following way:
  - (a) Sign within a framework or background shall be calculated as the area within that framework or background of the sign. The support for the sign, whether it be columns, a pylon, or a building or part thereof, shall not be included in a sign area.
  - (b) For wall signs, canopy signs or any other type of sign without a frame, the sign area shall be the area within a regular geometric shape that includes all letters, figures, graphics or other elements of the sign.
  - (c) For double-face or sandwich board signs, the area of the sign shall be calculated based on one sign face.
- (2) Measuring sign height. The height of a freestanding sign shall be calculated in the following way:
  - (a) The vertical height of a freestanding sign shall be the vertical distance measured from whichever is higher, the crown of the adjacent street or highest adjacent grade, not including berms or raised landscaping beds, to the highest point of the sign face or its supporting structural elements.

**Sec. 30-7. Construction and Maintenance Standards.**

- (1) *Generally.* All signs shall comply with the appropriate detailed provisions of the Florida Building Code relating to design, structural members, illumination and connections. 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.
- (2) *Structural design.*
  - (a) The town manager or designee may require wind load calculations for signs prior to issuance of a permit.
  - (b) A wall must be designed for and have sufficient strength to support any sign that is attached thereto.
- (3) *Materials for monument signs.*
  - (a) All monument signs shall be self-supporting structures erected on and permanently attached to the ground.
  - (b) 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.
- (4) *Lighting.* Signs may be illuminated in compliance with the following:
  - (a) All electric signs shall be certified by a licensed electrical contractor that the sign meets the standards established by the Florida Building Code. 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.

- (b) Externally illuminated signs may not cause glare to passing motorists, pedestrians or adjacent properties. Bulbs, lenses, or globes shall not be visible from outside of the property where the sign is located or from any right-of-way. See ch. 14 of this code for sea turtle lighting restrictions.
- (c) Sign lighting shall be in compliance with the lighting regulations found in section 34-1833(3)e.
- (5) *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 made of galvanized steel or of an equivalent corrosive-resistant material. All such sign supports shall be an integral part of the sign.
- (6) *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.
- (7) *Maximum angle for double-faced signs.* Double-faced signs with opposing faces having an interior angle greater than 30 degrees shall not be permitted.
- (8) *Maintenance.* All visible portions of a sign and its supporting structure shall be maintained in a safe condition and neat appearance. If the sign is a lighted sign, all lights shall be maintained in working order and functioning in a safe manner. If the sign is a painted sign, the paint shall be kept in good condition. All signs will be kept in such manner as to constitute a complete sign at all times. The area immediately surrounding ground signs shall be kept clear of all unsightly vegetation or debris.

#### **Sec. 30-8. - Prohibited signs.**

The following signs are prohibited:

- (1) 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) Signs that resemble any traffic control device, official traffic control signs or emergency vehicle markings.
- (3) Signs located 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) Animated signs except those displaying only cycling time or temperature.

- (5) 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.
- (6) Balloons or balloon signs.
- (7) Flying paraphernalia.-
- (8) Canopy signs.
- (9) Bench signs.
- (10) Emitting signs.
- (11) Inflatable objects.
- (13) Motion picture signs.
- (14) Obscene signs.
- (15) Parasite signs.
- (16) Pole signs.
- (17) Roof signs.
- (18) Signs with any lighting or control mechanism which causes radio, television or other communication interference.
- (19) Signs erected, constructed or maintained so as to obstruct or be attached to any firefighting equipment or any window, door or opening used as a means of ingress or egress or for firefighting purposes, or placed so as to interfere with any opening required for proper light and ventilation.
- (20) Signs which are placed on any curb, sidewalk, post, pole, 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.
- (21) Snipe signs.
- (22) Window signs which cover more than 30 percent of the window glass surface area.

**Sec. 30-9. - Violation of chapter; penalty.**

The town manager or designee is authorized to pursue any one or combination of the enforcement mechanisms provided in this code or by law for any violation of this chapter. Penalties may be assessed against any owner, agent, lessee, tenant, 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 a dangerous or defective condition.

**Sec. 30-10. - Permits and Approvals.**

- (1) *Permits.*

- (a) It shall be the duty of the town manager or designee, upon receipt of a completed sign permit application and appropriate fee, 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 a permit for the requested structure. Issuance of the permit shall in no way prevent the town manager or designee 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 except in compliance with this chapter and any other applicable ordinances and laws or court decisions.
- (2) *Lapse.* A sign permit shall lapse automatically if the business license for the premises lapses, is revoked, or is not renewed. A sign permit shall also lapse if the business activity on the premises is discontinued for a period of 30 days and is not renewed within 30 days from the date written notice is sent from the town to the last permittee that the sign permit will lapse if such activity is not resumed. A sign permit shall also lapse if the sign for which it is issued either is not erected and/or placed within 180 days following the issuance of the sign permit or is removed for a period of 60 days. Once a sign permit has lapsed, it shall be considered void and a new application and review process shall be necessary in order to have the sign permit re-issued.
  - (3) *Variations.* 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 of this LDC.
  - (4) *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 or designee.
  - (5) *Inspections.* All signs for which a permit is required by this chapter must be inspected by the town to ensure compliance with this chapter and all other applicable regulations. 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 structure.

**Sec. 30-11. - Nonconforming signs.**

- (1) *Nonconforming sign compliance.* All signs that do not conform to the requirements of this chapter shall be considered nonconforming signs. All nonconforming signs shall be either removed or brought into conformity with this chapter no later than December 31, 2023. The owner of the real property on which such nonconforming signs exist shall be responsible for ensuring that such signs are removed or brought into conformity.
- (2) *Nonconforming sign permits.* Sign permits will not be issued for the alteration, replacement or repair of a nonconforming sign unless the requested modification brings the nonconforming sign into compliance.
- (3) *Exception.* Signs that have been designated as historically significant pursuant to section 30-12 - Designation of historically significant signs, shall not be considered to

be nonconforming signs. Such signs shall be governed by the provisions of section 30-12.

**Sec. 30-12. - Designation of historically significant signs.**

Any existing sign may be nominated for designation as historically significant as provided herein.

- (1) Nomination of a sign for designation as historically significant shall be made on an application provided by the director. The application should document the historical background of the sign.
- (2) The historic preservation board will hold a public hearing on the nomination and will use the historic preservation element of the town's comprehensive plan as a guideline to consider the nomination. The following criteria will be considered where applicable:
  - (a) Whether the sign is associated with historic person(s), event(s), or location(s);
  - (b) Whether the sign provides significant evidence of the history of the product, business or service represented;
  - (c) Whether the sign is characteristic of a specific historic period;
  - (d) Whether the sign is an outstanding example of the art of sign-making, through its craftsmanship, use of materials, and/or design; and
  - (e) Whether the sign is a local landmark that is popularly recognized as a focal point in the community.
- (3) The historic preservation board will, after hearing public comment, vote to recommend that the town council either approve or deny historically significant status to the nominated sign.
- (4) Following the historic preservation board public hearing, the town council will hold a public hearing to consider the nomination. In order to approve the designation of a sign as historically significant, the town council must find that the sign meets one or more of the criteria in § 30-12(2) and is consistent with the town comprehensive plan historic preservation element.
- (5) A sign that has been designated historically significant may remain as a legal nonconforming sign notwithstanding the provisions of Sec. 30-11 Nonconforming signs. If a sign that has been designated as historically significant is damaged or destroyed, it may be reconstructed, but such reconstruction must duplicate in all respects the sign that was damaged or destroyed.

**Sec. 30-13. Liability Insurance.**

- (1) Liability insurance required. No permitted sign located on or projecting over a public right-of-way shall be erected unless an insurance policy shall have been filed for public liability with a limit determined by the Town of Fort Myers Beach.
  - (a) Such policy shall be issued by an insurance company authorized to do business in the State of Florida and acceptable to the Town Manager.

- (b) The policy shall name the Town of Fort Myers Beach as a co-insured and shall require 30 days' written notice to the Town before modification or cancellation.
- (c) Such policy shall protect and hold the Town harmless from any and all claims or demands for damages by reason of any negligence of the sign hanger, contractor, property owner or occupants or their respective agents; or by reason of defects in the construction, or damages resulting from the collapse, failure or combustion of the sign or parts thereof.
- (d) The policy shall be maintained so long as the sign in question remains erected.

**Sec. 30-14. - Severability.**

- (1) *Generally.* If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this chapter is declared unconstitutional by a final and valid judgment or decree of any court of competent jurisdiction, this declaration of unconstitutionality or invalidity shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this chapter.
- (2) *Severability where less speech results.* This subsection shall not be interpreted to limit the effect of subsection (a) above, or any other applicable severability provisions in the code or any adopting ordinance. The town council specifically intends that severability shall be applied to these sign regulations even if the result would be to allow less speech in the town, whether by subjecting currently exempt signs to permitting or by some other means.
- (3) *Severability provisions pertaining to prohibited signs.* This subsection shall not be interpreted to limit the effect of subsection (a) above, or any other applicable severability provisions in the code or any adopting ordinance. The town council specifically intends that severability shall be applied to section 30-5, "Prohibited signs," so that each of the prohibited sign types listed in that section shall continue to be prohibited irrespective of whether another sign prohibition is declared unconstitutional or invalid.
- (4) *Severability of prohibition on off-premises signs and commercial advertising signs.* This subsection shall not be interpreted to limit the effect of subsection (a) above, or any other applicable severability provisions in the code or any adopting ordinance. If any or all of chapter 30 "Signs," or any other provision of the Town's Code is declared unconstitutional or invalid by the final and valid judgment of any court of competent jurisdiction-