

## Utilities Element

### *GOALS - OBJECTIVES - POLICIES*

Based on the analysis of utility services in this element, the following goals, objectives, and policies are adopted into the Fort Myers Beach Comprehensive Plan:

**GOAL 8: To improve the existing systems that provide safe drinking water, irrigation water, sewer service, and solid waste disposal in order to reduce environmental impacts on land and water while keeping costs as economical as possible.**

**OBJECTIVE 8-F RELATIONS WITH UTILITIES — Increase the town's role in influencing utility providers about service alternatives, facility locations, and conservation of resources.**

**Policy 8-F-1** Mandatory customer connections to water and sewer utilities shall continue to be the policy of the Town of Fort Myers Beach.

**Policy 8-F-2** When considering improvements to utility systems, utility companies should expect involvement by the town in evaluating alternatives and seeking the best interests of utility customers and other people and resources affected by those decisions.

**Policy 8-F-3** The town shall seek a significant role in policy matters concerning Lee County Utilities' sewer service, based on the town's dual roles as a major user of this service and its location directly downstream of any effluent discharges into tidal waters.

**Policy 8-F-4** The town's potable water supply distribution system is supplied by Lee County Utilities under terms set forth in a bulk water agreement approved in August 2001. Lee County Utilities has a long-term expansion plan that

details existing and proposed uses of traditional and alternative water supply sources, in accordance with SFWMD's Lower West Coast Water Supply Plan Update (July 2006). Lee County Utilities' expansion plan, the Water Supply Facilities Work Plan, was last updated in July 2008 and is incorporated herein by reference.

Policy 8-F-5 The town shares a common interest with Lee County government in ensuring that potable water supplies will be sufficient to meet future demands. The town will coordinate with Lee County on an ongoing basis on the following matters:

1. Analyzing peak season demands and providing sufficient allocations of water.
2. Using consistent population projections and level-of-service standards.
3. Conserving water by adopting a conservation rate structure (see Policy 8-C-6).
4. Implementing a leak detection program and replacing obsolete portions of the water supply system.

OBJECTIVE 8-G LEVELS OF SERVICE — Maintain minimum acceptable levels of service for potable water, sanitary sewer, and solid waste disposal.

Policy 8-G-1 The minimum acceptable level of service standards for utility services within the Town of Fort Myers Beach shall be:

1. for potable water service:
  - (a) available supply, treatment, and delivery capacity of 260 gallons per day per equivalent residential connection (ERC), and delivery of potable water at a minimum pressure of 20 pounds per square inch (psi) at the meter anywhere in the system.

- (b) Prior to issuance of building permits, the town must obtain assurances from Lee County Utilities that an adequate bulk water supply will be available to the town's water distribution system to serve new development at these same rates.
- 2. **for sanitary sewer service:** available capacity to collect, treat, and dispose of wastewater of 175 gallons per day per equivalent residential connection (ERC).
- 3. **for solid waste disposal service:** the ability to collect and manage 7 pounds of municipal solid waste per person per day.

An ERC is defined as the total number of meter equivalents using the methodology of the Florida Public Service Commission (and is synonymous with their use of the term "equivalent residential units"). ERCs are used to convert commercial and industrial water or sanitary sewer use into standard units that are based on typical rates of use in dwelling units.

Policy 8-G-2 The town will enforce these levels of service under the concurrency requirements of Florida law by requiring one of the following before issuance of development permits:

- 1. development orders or building permits will be issued subject to the condition that, at the time of the issuance of a certificate of occupancy, the necessary facilities and services must be in place and available to serve the development being authorized; or
- 2. at the time development orders or building permits are issued, the necessary facilities and services are guaranteed to be in place and available to serve the development at the time of issuance of a certificate of occupancy through an enforceable development agreement pursuant to Section 163.3220, Florida Statutes, or through an agreement or development order pursuant to Chapter 380, Florida Statutes.

POLICY 8-B-3 The concurrency management system in the town's Land Development Code shall be amended to requirement the assessment of water supply capacity, in addition to treatment plant capacity, when determining compliance with the potable water level of service specified in Policy 8-B-1.

OBJECTIVE 8-H WATER CONSERVATION — Take all reasonable steps to conserve potable water supplies, aiming for a 10% per-capita reduction in water use by 2005.

POLICY 8-H-1 The town shall, by resolution, encourage Lee County Utilities to expand its facilities and agreements for recycling treated wastewater for reuse as irrigation water; deep-well injection of surplus wastewater should be limited to emergency use only.

POLICY 8-H-2 The town shall consult with the South Florida Water Management District to obtain suggestions on regulations to conserve water before adopting such regulations.

POLICY 8-H-3 The town will use drought-tolerant vegetation, xeriscape techniques, recycled water, or other available methods for landscaping publicly owned lands, and encourages private landowners to do the same to reduce usage of potable water for irrigation purposes.

POLICY 8-H-4 The town will continue to require, through its building codes, the use of water-saving plumbing fixtures in all new development and redevelopment.

POLICY 8-H-5 The town will support public educational programs that encourage water conservation practices.

POLICY 8-H-6 The town should consider implementing a strong conservation rate program where large water users pay a higher rate per gallon than is charged to frugal users.

OBJECTIVE 8-1 SOLID WASTE — Add recycling pickup at commercial enterprises, and maintain an efficient solid waste system that stresses recycling of reusable materials plus safe and efficient disposal of that which cannot be recycled.

POLICY 8-I-1 The town will ensure the routine collection of residential and commercial wastes; special collections of bulky items; separate curb-side and bulk collection of recyclable materials; and separate collection of yard wastes and construction debris.

POLICY 8-I-2 The town will continue its participation in Lee County's program of recycling, incineration, and disposal of solid wastes.

POLICY 8-I-3 The town will seek to expand the current program to collect recyclables from motels and other tourist lodgings, and to collect and recycle additional materials.

POLICY 8-I-4 The town will consider an ordinance requiring mandatory recycling of solid waste if voluntary participation does not achieve standards set by state or regional agencies.

POLICY 8-I-5 The town will evaluate methods of improving the cost-effectiveness of solid waste collection, and may consider franchising the collection process independently of Lee County.

POLICY 8-I-6 The town will cooperate with Lee County in implementing programs to decrease the volume of solid waste requiring landfilling (e.g. source

separation of material which can be reused, recycled, or disposed of in another manner). The town shall also support and assist in programs to reduce roadside litter and illegal dumping, such as Keep Lee County Beautiful's annual coastal cleanups.

**POLICY 8-I-7** The town will cooperate with the Lee County in educating businesses and residents on the proper management of hazardous wastes and the provision of convenient disposal opportunities for the benefit of the town's citizens and visitors. This cooperation shall include distributing written material prepared by Lee County and publicizing their regular schedule of household hazardous waste collection days.

## APPENDIX: INFLUENCE OF LEGISLATION

The town's utility providers must construct and operate potable water and sanitary sewer facilities in accordance with all applicable federal, state, and local regulations. Most of the existing regulations pertaining to water quality and sewage treatment are based on federal guidelines mandated by the United States Environmental Protection Agency (EPA). Minimum drinking water standards are defined under Public Law 93-423. This law, also known as the "Safe Drinking Water Act," establishes federal water quality standards for the protection of water for public uses, including operational standards and quality controls for public water systems.

In order to comply with the federal regulations for water quality, the State of Florida has adopted legislation pursuant to Chapter 403.850, *Florida Statutes*. The "Florida Safe Drinking Water Act" meets the same federal primary and secondary water quality standards required for public health and recommended for aesthetic quality. The State of Florida has also implemented specific laws for classifying and regulating public drinking water systems under Chapters 62-501 and 10D-4 of the *Florida Administrative Code*.

The federal regulations governing wastewater treatment are set forth under Public Law 92-500 or the "Federal Water Pollution Control Act." This law requires that wastewater treatment programs be established to regulate water quality limits for effluent disposal and to control "point source" pollution. These provisions have been implemented at the state level under Chapter 403.086, *Florida Statutes*, and Chapter 62-600, *Florida Administrative Code*. Separate standards for on-site sewage treatment and disposal systems are established in Chapter 10D-6, *Florida Administrative Code*.

State requirements pertaining to the management of water resources and the regulation of consumptive water use have been adopted by regional water management districts pursuant to Chapter 40D-2, *Florida Administrative Code*. The purpose of Chapter 40D-2 is to implement the provisions of Part II of Chapter 373, *Florida Statutes*, and the State of Florida Water Policy. Additional rules relating to water use are found in Chapter 40D-3, entitled “Regulation of Wells” Chapter 40D-8, entitled “Water Levels and Rates of Flow”; and, Chapter 40D-21, entitled “Water Shortage.”

Numerous federal, state, and local laws and rules regulate solid waste disposal. In addition to mandates, organizations such as the Southwest Florida Regional Planning Council have guidelines and policies with which Fort Myers Beach’s solid waste operations must be consistent. Among these rules and plans are chapters 187 and 403 *F.S.*, the Federal Resource Conservation and Recovery Act, Rules 9J-5 and 62-701, the *Florida Administrative Code*, and the *Regional Strategic Policy Plan*.

Chapter 403 (Part IV) of the *Florida Statutes* contains the 1988 Solid Waste Management Act. This act greatly altered the management of solid waste for all local governments, specifically requiring all local governments to start recycling programs in order to reduce the amount of waste being deposited into landfills by thirty percent (30%). In addition, counties are required to recycle at least fifty percent (50%) of newspapers, aluminum cans, glass, and plastic bottles. The act also addresses the disposal of various other wastes such as lead-acid batteries, used oil, and tires.

The Resource Conservation and Recovery Act (RCRA) was adopted by Congress in 1976 and serves as the Federal legislation which regulates the disposal of municipal solid waste by setting minimum standards for waste disposal facilities. It also established resource recovery as a national priority and mandated that efforts to better utilize and manage the recycling of wastes were needed.

Rule 9J-5, *Florida Administrative Code*, specifies the requirements for local government comprehensive plans. It requires the Town of Fort Myers Beach to include an infrastructure element with a solid waste section and goals, objectives, and policies relating to solid waste. The Rule requires adoption of minimum level of service standards and concurrency requirements indicating that the Town of Fort Myers Beach will not issue development orders or building permits unless facilities and services are in place to manage a development's impact.

Chapter 62-701, *Florida Administrative Code*, outlines specific state requirements regarding the operation and closure of landfills, solid waste permits, and the handling of special wastes. This rule also regulates the disposal and classification of waste, and prohibits the disposal of yard wastes in landfills with liners.

The Town of Fort Myers Beach has currently adopted Lee County regulations which govern solid waste in order to be consistent with these state, federal, and regional guidelines.

The State of Florida's comprehensive plan (Chapter 187, *Florida Statutes*) seeks to ensure that sewer, water, and solid waste disposal services are provided in accordance with the aforementioned regulations. The plan has several goals relating to utility services. Overall, the plan seeks to safeguard the environment from the effects of pollution.

Chapter 163, Part II, *Florida Statutes* is known as the local government comprehensive planning act. It requires local governments to adopt comprehensive plans which are reviewed and approved by the state's land planning agency, the Department of Community Affairs. This element is one of those required by Chapter 163.

The Florida Department of Community Affairs also requires local governments to incorporate a concurrency management system in accordance with Chapter 163, Part II, *Florida Statutes*. For the Utility Element, potable water and sanitary sewer facilities and solid waste collection and disposal must be in place or available to serve new development at the time a certificate of occupancy is issued by the local government.

The Southwest Florida Regional Planning Council has a Strategic Regional Policy Plan (SRPP) for this region. This plan identifies several issues and policy statements which have regional significance. These regional issues and policies cover “Surface Water Management,” “Protection of Groundwater Resources,” “Planning for Public Facilities,” and “Protection of Water Supply” to name a few. The goals, objectives, and policies of the Utility Element should be consistent with these federal, state, and regional laws and plans.

According to the SRPP, “Planning for Public Facilities” section, sewer (facilities and service), water, and solid waste are categorized as “primary” public facilities in the SRPP, which are required by the public on a daily basis. Region-wide, population growth will continue to strain existing facilities and services. Seasonal populations make facility planning very difficult. It is hard to ensure that development utilizes existing unused service capacities before resorting to the construction of new facilities.

The SRPP indicates that local governments within the region should support and establish recycling and hazardous waste disposal programs; transportation of hazardous waste products is regulated; personnel working with hazardous wastes be trained and properly protected; and local governments properly collect solid wastes and operate disposal facilities.

Solid waste management programs in the Region consist of landfills, transfer stations, and yard trash compost sites. An SWFRPC study indicated limited effectiveness for a single six-county solid waste disposal system. As a result, alternatives such as the Lee County Resource Recovery Facility and the currently under construction - Lee/Hendry Landfill have come to fruition.