

RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA
PROCLAMATION OF STATE OF LOCAL EMERGENCY
RESOLUTION NUMBER 08-37

WHEREAS, Chapter 252, Florida Statutes, authorizes the waiver of procedures and formalities, otherwise required of municipalities, to take whatever prudent action is necessary to ensure the health, safety, and welfare of the community in the event of a state of emergency; and

WHEREAS, Florida Statute 252.38 specifically authorizes municipalities to declare a state of local emergency and to waive the procedures and formalities otherwise required of political subdivisions required by law pertaining to performance of public work and taking whatever action in necessary to ensure the health, safety, and welfare of the community such as but not limited to entering into contracts; incurring obligations; employing permanent and temporary workers; utilizing volunteer workers; renting of equipment; acquiring and distributing supplies, materials and facilities with or without compensation, and appropriating and expending public funds; and

WHEREAS, the Town of Fort Myers Beach, Florida (Town), pursuant to its inherent home rule powers under Florida Constitution and otherwise has adopted certain emergency procedures in Ordinance(s) 06-12 and is otherwise authorized to activate the Town's emergency plan; and

WHEREAS, Governor Charlie Crist signed Executive Order 08-170 on August 16, 2008, in response to the threat that Tropical Storm Fay imposes to the State of Florida and has declared a state of emergency for the entire state, pursuant to Chapter 252, Florida Statutes; and

WHEREAS, on August 18, 2008, the Board of County Commissioners of Lee County, Florida, passed a Resolution declaring a state of local emergency due to the threat that Tropical Storm Fay; and

WHEREAS, at the time of the passage hereof by the Town Council of the Town of Fort Myers Beach, the National Hurricane Center has recognized the current danger to coastal residents of Florida from Tropical Storm Fay; and

WHEREAS, the Town has lengthy evacuation times in order to evacuate residents and others from the hazards of a hurricane; and

WHEREAS, the aforesaid Tropical Storm has the potential for causing extensive damage to public utilities, public buildings, public communication systems, public streets and road, public drainage systems, commercial and residential buildings and areas; and

WHEREAS, a quorum of the Town Council of Fort Myers Beach declared and proclaimed that the aforesaid danger has created an state of local emergency affecting the health, safety and welfare of the Town as defined in Town Ordinance 06-12; and

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

Section 1. The above "Whereas" clauses are incorporated herein as findings of fact and conclusions of law as though fully set forth herein.

Section 2. Tropical Storm Fay may pose a serious threat to the lives and property of the citizens of the Town of Fort Myers Beach. Accordingly, a state of local emergency is hereby declared and proclaimed within the territorial limits of the Town of Fort Myers Beach, Florida, effective **as of 10:00 am on August 18, 2008.**

Section 3. This resolution is an emergency measure necessary for the protection of the public safety, due to the proximity of Tropical Storm Fay.

Section 4. As provided in F.S. 252.38(3)(a) and Town Ordinance 06-12, the Town Council, through the undersigned official, hereby waives the procedures and formalities otherwise required by law of a municipality.

Section 5. The Town Council hereby **waives the mandatory curfew** set forth in Section 7 of Ordinance 06-12. The Town Council is not hereby imposing a mandatory curfew.

Section 6. The Town Council hereby **waives the prohibition set forth in Section 7 of Ordinance 06-12 regarding the use of fresh water** supplied by the County or local water company for any purpose other than cooking, drinking or bathing.

Section 7. The Town Manager or designee is hereby designated as the declaring official for purposes of implementing the emergency and disaster ordinances of the Town. The Town Manager or designee will exercise all powers set forth in the Executive Order, as well as Chapter 252, Florida Statutes. This Resolution also authorizes the Town Manager or designee to utilize government employees and volunteers to assist in securing private property so as to minimize the overall damage to the Town of Fort Myers Beach, Florida.

Section 8. This Resolution shall take effect immediately upon adoption.

The foregoing Resolution was adopted by the members of the Fort Myers Beach Town Council, upon Motion by Councilmember Raymond and second by Councilmember Babcock. Upon being put to a vote, the result was as follows:


Larry Kiker, Mayor	<u>aye</u>
Herb Acken, Vice Mayor	<u>aye</u>
Tom Babcock, Councilmember	<u>aye</u>
Jo List, Councilmember	<u>aye</u>
Bob Raymond, Councilmember	<u>aye</u>

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


ATTEST,

By: 
Michelle Mayher, Town Clerk

TOWN OF FORT MYERS BEACH

By: 
Larry Kiker, Mayor

Approved as to legal form and legal sufficiency by:


Anne Dalton, Esquire, Town Attorney