



Town of Fort Myers Beach

LOCAL PLANNING AGENCY

Town Hall
2525 Estero Boulevard
Fort Myers Beach, Florida
33931

April 18, 2017

AGENDA

9:00 AM

- I. Call to Order
- II. Pledge of Allegiance
- III. Invocation
- IV. Minutes
 - A. Minutes of March 14, 2017

- V. Historic Preservation Board meeting:
Adjourn as LPA and reconvene as Historic Preservation Board
 - A. HAC membership – Disseminate Membership Roster
Adjourn as Historic Preservation Board and reconvene as LPA

- VI. LDC Amendment to Add Permitting Survey Requirements in Chapter 34
- VII. LDC Amendment 50% Floodplain Regulations in Chapter 6
- 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: May 9, 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, March 14, 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: Town Attorney Peterson

Staff: Matt Noble

II. PLEDGE OF ALLEGIANCE

III. INVOCATION

IV. MINUTES - February 14, 2017

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

VOTE: Motion approved; 7-0.

Chair Zuba read a resolution honoring Mr. Butcher for his years in public service.

V. DISCUSSION: CONSTRUCTION OF HABITABLE AREAS BELOW ELEVATED HOMES

Division Chief Ron Martin, Fort Myers Beach Fire Control District and Fire Marshall, discussed Fort Myers Beach Fire Control District ordinance 2016-001 concerning routine annual fire inspections for transient rental occupancies and non-owner occupied rental properties with two families or more. The Fire Prevention Code applied to residential occupancies of three units or more. One or two family homes were considered exempt from routine annual fire inspections. Chief Martin stated the Ordinance allowed the Fire District to conduct routine fire inspections and property managers have registered and become compliant.

Town of Fort Myers Beach - Local Planning Agency

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Ms. Heil asked whether single owners complied. Chief Martin replied that they relied on complaints and they tried to monitor websites. Owners receive notices that they must comply with the Ordinance. When asked about enforcement issues, Division Chief Martin replied that they have gone through 90 out of 300 units since the registration requirement went into effect in July of 2016.

Mr. Hendrickson asked about the number of non-registered properties. Chief Martin responded that they pulled licensed properties, but some did not hold state licenses. He could not provide an estimate. He described the process and cost of registering properties with the Fire District. Mr. Hendrickson asked about the relationship between the Fire Department and the Town's Code Enforcement. Chief Martin explained their roles. If a registered owner refused an inspection, a lengthy process followed. He explained that a fire inspection was an educational opportunity and the Fire District was not interested in fines and violations.

Mr. Butcher asked how many of the 90 were in violation. Chief Martin could not say without the history in front of him, but there were not many and most of the issues were resolved fairly quickly.

Ms. Plummer asked how many man hours it took to conduct an inspection. Chief Martin stated they averaged between 9-15 inspections per month and it took approximately 45 minutes to an hour for one inspector to check a 1,500 sq. ft. property. Member Plummer felt that the Fire Marshall could work closely with the majority of rental companies to get them into compliance, and that the Fire Marshall and Code Enforcement should be separate.

Mr. Safford asked how long registrations lasted, and Chief Martin replied that they were good until the property changed hands.

Chair Zuba questioned how they registered owners who did not voluntarily do so, and how to get everyone registered. Chief Martin stated that they were working on options, and that they relied on their citizenry. Ms. Plummer asked how often inspections would occur after the first one, to which Chief Martin remarked that the goal was to re-inspect 18-24 months after the first inspection.

Chair Zuba hoped the Fire Department would keep the LPA informed on a monthly basis.

Molly Jacobs, Town Code Enforcement Officer, indicated that the Fire Department recommended at least two cases to her and she noted that the Fire Department did contact Code Enforcement when they felt there was a concern.

Mr. Butcher asked about State occupancy factors. Ms. Plummer confirmed that occupancy factors were based on square footage. Chief Martin commented that an owner or manager could make the occupancy load more restrictive.

Ms. Plummer asked that Rick and Amy Lowry from Distinctive Beach Rentals be permitted to discuss their experience. Mr. Lowry stated that the Ordinance was great and many properties needed to be inspected, and that they have not lost any business since the Ordinance was enacted. Ms. Plummer questioned whether he had an idea of how many rentals were not registered.

Ms. Heil addressed public education and public awareness for new residents. Chief Martin stated that information was on the FMBFire website. Chief Martin commented that they were fortunate to have property managers on the Island who were responsive and responsible.

VI. HISTORIC PRESERVATION BOARD MEETING

MOTION: Mr. Hendrickson moved to adjourn as LPA and reconvene as Historic Preservation Board; second by Ms. Plummer

VOTE: Motion approved; 7-0.

HAC MEMBERSHIP - REVIEW LETTERS OF INTEREST

Chair Katt revealed that A.J. Bassett, Fran Santini and Linda Meeder resigned from the Historic Advisory Committee (HAC). Fran Santini and A.J. Bassett were voted in as ex-officio members. Chair Katt noted that several members of the community were interested in joining the committee.

MOTION: Chair Katt moved to appoint Russ Carter, Katherine Kantlan, Susan Dyzyky and Betty Simpson to the HAC; second by Mr. Hendrickson.

VOTE: Motion approved; 7-0.

MOTION: Ms. Plummer moved to adjourn as Historic Preservation Board and reconvene as the LPA; second by Ms. Heil.

VOTE: Motion approved; 7-0.

VII. LDC AMENDMENT TO ADD PERMITTING SURVEY REQUIREMENTS IN CHAPTER 34

Matt Noble, Community Development Principle Planner, explained that the amendment was to add a boundary survey into the code regarding permitting survey requirements. Kara Stewart, Community Development Director, noted that the boundary survey was not currently required, but Council and LPA requested that it be required.

Ms. Katt suggested clarifying the language. Town Attorney Peterson agreed to change the language. Mr. Hendrickson questioned why an as-built survey was not required for an accessory structure over \$10,000.00. Ms. Stewart replied that if the accessory structure was greater than \$10,000.00, a survey was not required, but they could add it. She did not recommend requiring any as-built surveys.

Town Attorney Peterson will change the language and bring it back to the next meeting.

Mr. Butcher questioned whether the as-built survey was necessary on top of a boundary survey and a foundation survey. Ms. Stewart clarified that as-built surveys were not currently required for anything. Chair Zuba felt that there should be an as-built for new construction.

MOTION: Mr. Hendrickson moved to continue the discussion at the next meeting on April 11, 2017; second by Ms. Katt.

VOTE: Motion approved; 7-0.

VIII. LDC AMENDMENT 50% FLOODPLAIN REGULATIONS IN CHAPTER 6

Ms. Plummer clarified that one option included adding 20% to the property appraisers figure when establishing the market value. Mr. Butcher questioned how they came up with 20%. Ms. Stewart explained her research and stated that about 1/3 of the communities used 20%. Ms. Katt asked whether the phrase "just value" referred to the assessed tax value. Ms. Stewart indicated the term came from the Lee County document. She noted that the language would have to be approved by FEMA before coming back to the LPA.

Mr. Butcher commented that 20% seemed low. Ms. Stewart noted that it was only an option and many people provided a survey. Ms. Heil felt that 30% was more reasonable.

Mr. Hendrickson asked whether there was a way to measure the difference between the cost of building the same structure in different areas. Ms. Stewart offered to contact the Lee County Property Appraiser's office. She will meet with the CRS evaluator in April and will bring back information.

IX. LPA MEMBER ITEMS AND REPORTS

Mr. Safford asked the status of a case to approve a balcony that was already built.
Ms. Plummer commented that she met wonderful people while working the election. She read a letter from a builder discussing costs affiliated with the permitting process and possible litigation. She asked how they could require a view corridor through someone's property. Chair Zuba felt that bulk, floor area ratio and permeable areas should be evaluated in the Code.
Mr. Butcher appreciated the work everyone does.
Ms. Katt thanked Mr. Noble for his help on the committee and she thanked Mr. Hendrickson for sending the HAC meeting to her.
Ms. Heil attended the Bike/Ped Master Plan meeting and she reported the plan was convoluted. Chair Zuba thanked her for attending.

X. LPA ATTORNEY ITEMS - no items

XI. COMMUNITY DEVELOPMENT ITEMS - no items

XII. ITEMS FOR NEXT MONTH'S AGENDA

XIII PUBLIC COMMENT - no public comment

XIV. ADJOURNMENT

MOTION: Mr. Hendrickson moved to adjourn the meeting; second by Ms. Katt.

VOTE: Motion approved; 7-0.

Meeting adjourned at 10:40 a.m.

Adopted _____ With/Without changes. Motion by _____

Vote: _____

- End of document

HAC Committee	Name	Address	Email	Phone Number
Chair	Suzanne Katt	136 Madison Ct.	suzannekatt@gmail.com	(317) 356-9394
Vice Chair	Dan Hendrickson	21591 Widgeon Ter	dan_hendrickson@yahoo.com	(616) 443-7540
Member	Megan Heil	161 Hibiscus Dr.	heilmagan@gmail.com	(513) 616-4822
Member	Betty Simpson	180 Curlew	Bdsimpson2@comcast.net	(239) 463-2772
Member	Russell Carter	251 Pearl St.	wechoose@yahoo.com	(239) 233-3571
Member	Katherine Cantlon	131 Madison Ct.	ktcant@hotmail.com	(352) 278-3073
Member	Susan Dzacky	6500 Estero A101	sdzacky@sbcglobal.net	(219) 313-8631
Ex- Officio Members				
Member	Frances Santini	P.O.Box 2575	FrancesSantini@live.com	(239) 463-9773
Member	Linda Meeder	7861 Buccaneer Dr.	Brandfas@comcast.net	(239) 314-6934
Member	AJ Bassett	118 Mandalay Rd.	ajbassett@hotmail.com	(239) 463-9701

**RESOLUTION OF THE LOCAL PLANNING AGENCY OF
THE TOWN OF FORT MYERS BEACH FLORIDA
RESOLUTION NUMBER 2017-002
AMENDMENT TO ADD PERMITTING SURVEY
REQUIREMENTS IN CHAPTER 34 OF THE
LAND DEVELOPMENT CODE**

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 March 14, 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 required documentation submitted for building permits, 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 Chapter 34 of the Town of Fort Myers Beach Land Development Code, "Zoning Districts, Design Standards and Nonconformities;" adding Section 34- 639, "Permitting survey requirements" by adding requirements for a boundary survey at the time of building permit application and an as-built survey prior to issuance of a certificate of occupancy, and recommends the following findings of fact and conclusions with regard thereto:

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 below.
2. The LPA hereby recommends that the LDC be amended as contained in Exhibit A.
3. 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
Scott Safford
Jane Plummer
Dan Hendrickson

Bruce Butcher, Vice
Suzanne Katt
Megan Heil

DULY PASSED AND ADOPTED THIS _____ day of March 2017.

Local Planning Agency of the Town of Fort Myers Beach

Hank Zuba, Chair

Approved as to legal sufficiency:

By: _____

ATTEST:

By: _____

Town Clerk

Exhibit A
ORDINANCE 17-XX

AN ORDINANCE AMENDING CHAPTER 34, ARTICLE III, DIVISION 3, IN THE TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE, "EXPLANATION OF PROPERTY DEVELOPMENT REGULATIONS FOR ALL ZONING DISTRICTS;" ADDING SECTION 34-639, "PERMITTING SURVEY REQUIREMENTS;" BY PROVIDING REQUIREMENTS FOR A BOUNDARY SURVEY AT THE TIME OF BUILDING PERMIT APPLICATION AND AN AS-BUILT SURVEY PRIOR TO ISSUANCE OF A CERTIFICATE OF OCCUPANCY; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

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

Section 1. This Ordinance is enacted pursuant to the provisions of Chapter 95-494, Laws of Florida, Chapters 163 and 166, Florida Statutes and other applicable provisions of law.

Section 2. Adoption of Amendments to Chapter 34 of the Town of Fort Myers Beach Land Development Code. Chapter 34 of the Town of Fort Myers Beach Land Development Code, entitled "Zoning Districts, Design Standards and Nonconformities," is hereby amended as set forth in Exhibit "A," attached hereto and incorporated herein by reference. Entirely new language is indicated with underlining. Language being repealed from existing code is indicated with strikethroughs. Existing language being retained is shown without underlining or strikethroughs.

Section 3. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 4. Effective Date. This ordinance shall take effect immediately upon adoption by the Town Council.

The foregoing Ordinance was adopted by the Town Council upon a motion by _____ and seconded by and upon being put to a vote, the result was as follows:

Dennis Boback, Mayor
Anita Cereceda
Tracey Gore

Rexann Hosafros, Vice Mayor
Joanne Shamp

DULY PASSED AND ADOPTED THIS _____ DAY OF _____ 2017, BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH.

By: _____

Dennis Boback, Mayor

Approved as to form and legal sufficiency:

By: _____

Town Attorney

ATTEST:

By: _____

Michelle D. Mayher, Town Clerk

"EXHIBIT A"

Sec. 34-639. Permitting survey requirements.

- (a) Survey Required. In order to demonstrate compliance with applicable regulations of this Division, the applicant or contractor must provide, the following, as illustrated in the chart below, Illustration Chart 1:
 - (1) A boundary survey at the time of building permit application; and
 - (2) A foundation survey
 - (3) An as-built survey prior to issuance of a certificate of occupancy or a certificate of completion.
 - (4) Survey of height, when building permit plans call for construction within five (5) feet of the height limitation in the applicable zoning district.
 - (5) Survey must depict 1978 Coastal Construction Control Line, where applicable.
- (b) Types of permits requiring survey submission:
 - (1) New construction
 - (2) Room addition
 - (3) Swimming pools & spas
 - (4) Accessory buildings and structures
 - (5) Fences
- (c) Waiver of survey requirements. The Director has discretion to review waiver requests under certain situations:
 - (1) When proposed construction does not change the building envelope or height
 - (2) If the value of the permitted construction is less than \$10,000.00.

Illustration Chart 1:

<u>Type</u>	<u>Boundary survey</u>	<u>Foundation survey</u>	<u>As-built survey</u>	<u>Height/elevation</u>
<u>New construction</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Room addition</u>	<u>X</u>			
<u>Swimming Pool/spa</u>	<u>X</u>			
<u>Accessory buildings & structures</u>	<u>X</u>	<u>X</u>		
<u>Fences</u>	<u>X</u>			

ORDINANCE 17-XX

AN ORDINANCE AMENDING CHAPTER 34, ARTICLE III, DIVISION 3, IN THE TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE, "EXPLANATION OF PROPERTY DEVELOPMENT REGULATIONS FOR ALL ZONING DISTRICTS;" ADDING SECTION 34-639, "PERMITTING SURVEY REQUIREMENTS;" BY PROVIDING REQUIREMENTS FOR A BOUNDARY SURVEY AT THE TIME OF BUILDING PERMIT APPLICATION AND AN AS-BUILT SURVEY PRIOR TO ISSUANCE OF A CERTIFICATE OF OCCUPANCY; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

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

Section 1. This Ordinance is enacted pursuant to the provisions of Chapter 95-494, Laws of Florida, Chapters 163 and 166, Florida Statutes and other applicable provisions of law.

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Section 3. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 4. Effective Date. This ordinance shall take effect immediately upon adoption by the Town Council.

The foregoing Ordinance was adopted by the Town Council upon a motion by _____ and seconded by _____ and upon being put to a vote, the result was as follows:

Dennis Boback, Mayor
Anita Cereceda
Tracey Gore

Rexann Hosafros, Vice Mayor
Joanne Champ

DULY PASSED AND ADOPTED THIS _____ DAY of _____ 2017, BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH

By: _____
Dennis Boback, Mayor

ATTEST:

By: _____
Michelle D. Mayher, Town Clerk

Approved as to form and legal sufficiency:

By: _____
Town Attorney

"EXHIBIT A"

Sec. 34-639. Permitting survey requirements.

- (a) Survey Required. In order to demonstrate compliance with applicable regulations of this Division, the applicant or contractor must provide, the following, as illustrated in the chart below, Illustration Chart 1:
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- (c) Waiver of survey requirements. The Director has discretion to review waiver requests under certain situations:
 - (1) When proposed construction does not change the building envelope or height
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Illustration Chart 1:

<u>Type</u>	<u>Boundary survey</u>	<u>Foundation survey</u>	<u>As-built survey</u>	<u>Height/elevation</u>
<u>New construction</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Room addition</u>	<u>X</u>			
<u>Swimming Pool/spa</u>	<u>X</u>			
<u>Accessory buildings & structures</u>	<u>X</u>	<u>X</u>		
<u>Fences</u>	<u>X</u>			

**RESOLUTION OF THE LOCAL PLANNING AGENCY OF
THE TOWN OF FORT MYERS BEACH FLORIDA
RESOLUTION NUMBER 2017-003
AMENDMENT TO FLOODPLAIN REGULATIONS IN
CHAPTER 6 OF THE LAND DEVELOPMENT CODE**

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 March 14, 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 the Town's floodplain regulations, 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 Chapter 6 of the Town of Fort Myers Beach Land Development Code floodplain regulations and recommends the following findings of fact and conclusions with regard thereto:

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 below.
2. The LPA hereby recommends that the LDC be amended as contained in Exhibit A.
3. 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
Scott Safford
Jane Plummer
Dan Hendrickson

Bruce Butcher, Vice
Suzanne Katt
Megan Heil

DULY PASSED AND ADOPTED THIS _____ day of March 2017.

Local Planning Agency of the Town of Fort Myers Beach

Hank Zuba, Chair

Approved as to legal sufficiency:

ATTEST:

By: _____

By: _____

Town Clerk

Exhibit A
ORDINANCE NO. 17-XX

AN ORDINANCE AMENDING AND RESTATING TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE CHAPTER 6, ARTICLE IV, PERTAINING TO FLOODPLAIN REGULATIONS; ADOPTING THE REVISED FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAPS; PROVIDING FOR AMENDMENTS REQUIRED TO CONTINUE PARTICIPATION IN THE NATIONAL FLOOD INSURANCE PROGRAM; PROVIDING FOR APPLICABILITY; CODIFICATION; CONFLICTS; SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, the Legislature of the State of Florida has, in Chapter 166 – Municipalities, Florida Statutes, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the Federal Emergency Management Agency (FEMA) has identified special flood hazard areas within the boundaries of the Town of Fort Myers Beach and such areas may be subject to periodic inundation that may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare; and

WHEREAS, the Town of Fort Myers Beach was accepted for participation in the National Flood Insurance Program on September 19, 1984 and the Town Council desires to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60, necessary for such participation; and

WHEREAS, Chapter 553, Florida Statutes, was adopted by the Florida Legislature to provide a mechanism for the uniform adoption, updating, amendment, interpretation and enforcement of a state building code, called the Florida Building Code; and

WHEREAS, this ordinance was considered by the Local Planning Agency on March 14, 2017 and found to be consistent with the Town of Fort Myers Beach Comprehensive Plan; and

WHEREAS, the Town Council held two public hearings and received public comments regarding the provisions of this ordinance on ##, 2017 and ##, 2017; and

WHEREAS, the Town Council, based on review of local conditions and as demonstrated by evidence has determined that there is a local need to limit new installations of manufactured homes in certain high risk flood hazard areas; and

WHEREAS, the Town of Fort Myers Beach Town Council has determined it is in the public interest to adopt the proposed floodplain management regulations that are coordinated with the Florida Building Code.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of Fort Myers Beach that the following floodplain management regulations are hereby adopted.

SECTION 1. RECITALS.

The foregoing whereas clauses are incorporated herein by reference and made a part hereof.

SECTION 2. AMENDMENT OF TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE CHAPTER 6.

The Town of Fort Myers Beach Land Development Code Chapter 6, Article IV, pertaining to Floodplain Regulation, is hereby amended and restated in its entirety with underlining representing new text and strikethrough identifying deleted text.

ARTICLE IV. FLOODPLAIN REGULATIONS

DIVISION 1. GENERAL

Sec. 6-424. Substantial improvement and substantial damage determinations.

For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, will:

- (1) Estimate the market value by adding 20% to the just value provided by the Lee County Property appraiser, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure will be the market value before the damage occurred and before any repairs are made; any appraisal used for the purposes of substantial improvement/substantial damage determinations must be current within one year of work commencing;
- (2) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
- (3) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; the determination requires evaluation of previous permits issued for improvements and repairs as specified in the definition of "substantial improvement;" and for proposed work to repair damage caused by flooding, the determination requires evaluation of previous permits issued to repair flood-related damage as specified in the definition of "substantial damage;" and
- (4) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood-resistant construction requirements of the *Florida Building Code* and this article is required.

DIVISION 9. DEFINITIONS

Sec. 6-494. Definitions.

Market value. The price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in this article, the term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. Market value may be established by a qualified independent appraiser, Actual Cash Value (replacement cost depreciated for age and quality of construction), or tax assessment value adjusted to approximate market value of a factor provided by the Property Appraiser by 20%.

Any proposed value submitted via a private appraisal that exceeds the property appraiser's valuation by more than 35 percent may be subject to peer review by a qualified local appraiser or submittal of a new independent appraisal, with the full cost of the review or new appraisal paid by the applicant.

Substantial improvement. Any combination of repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure taking place during a one five year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the building or structure before the improvement or repair is started. For each building or structure, the onefive-year period begins on the date of the first permit issued for improvement or repair of that building or structure subsequent to February 4, 2002. If the structure has incurred "substantial damage," any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either: [Also defined in FBC, B, Section 202.]

- (1) Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.
- (2) Any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure.
- (3) {NO CHANGES TO THE REST OF THE SECTION}

DIVISION 10. FLOOD RESISTANT DEVELOPMENT

Subdivision VII. Other Development

Sec. 6-526. Concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and similar nonstructural uses in coastal high hazard areas (Zone V).

In coastal high hazard areas, concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and similar nonstructural uses are permitted beneath or adjacent to buildings and structures provided the concrete slabs are designed and constructed to be:

- (1) Structurally independent of the foundation system of the building or structure;
- (2) Frangible and not reinforced, so as to minimize debris during flooding that is capable of causing significant damage to any structure; and

- (3) Have a maximum slab thickness of not more than four inches and be cut into 5' x 5' sections.

SECTION 3. APPLICABILITY.

This ordinance applies within the jurisdiction of the Town of Fort Myers Beach. This ordinance applies to all applications for development, including building permit applications and subdivision proposals, submitted on or after the effective date of this ordinance.

SECTION 4. INCLUSION INTO THE CODE OF ORDINANCES.

The Town Council intends that the provisions of this ordinance will be made a part of the Fort Myers Beach Code of Ordinances, and that sections of this ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," "regulation," or such other appropriate word or phrase in order 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. SEVERABILITY.

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

SECTION 6. CONFLICTS.

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 7. EFFECTIVE DATE.

This ordinance becomes effective immediately upon adoption.

The foregoing ordinance was enacted by the Town Council upon a motion by Councilmember _____ and seconded by Councilmember _____, and upon being put to a vote, the results was as follows:

Dennis Boback
Joanne Shamp
Tracey Gore
Rexann Hosafros
Anita Cereceda

ATTEST:

TOWN OF FORT MYERS BEACH

By: _____
Michelle Mayher, Town Clerk

By: _____
Dennis Boback, Mayor

APPROVED AS TO FORM:

Town Attorney

ORDINANCE NO. 17-XX

AN ORDINANCE AMENDING AND RESTATING TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE CHAPTER 6, ARTICLE IV, PERTAINING TO FLOODPLAIN REGULATIONS; ADOPTING THE REVISED FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAPS; PROVIDING FOR AMENDMENTS REQUIRED TO CONTINUE PARTICIPATION IN THE NATIONAL FLOOD INSURANCE PROGRAM; PROVIDING FOR APPLICABILITY; CODIFICATION; CONFLICTS; SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, the Legislature of the State of Florida has, in Chapter 166 – Municipalities, Florida Statutes, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the Federal Emergency Management Agency (FEMA) has identified special flood hazard areas within the boundaries of the Town of Fort Myers Beach and such areas may be subject to periodic inundation that may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare; and

WHEREAS, the Town of Fort Myers Beach was accepted for participation in the National Flood Insurance Program on September 19, 1984 and the Town Council desires to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60, necessary for such participation; and

WHEREAS, Chapter 553, Florida Statutes, was adopted by the Florida Legislature to provide a mechanism for the uniform adoption, updating, amendment, interpretation and enforcement of a state building code, called the Florida Building Code; and

WHEREAS, this ordinance was considered by the Local Planning Agency on March 14, 2017 and found to be consistent with the Town of Fort Myers Beach Comprehensive Plan; and

WHEREAS, the Town Council held two public hearings and received public comments regarding the provisions of this ordinance on ##, 2017 and ##, 2017; and

WHEREAS, the Town Council, based on review of local conditions and as demonstrated by evidence has determined that there is a local need to limit new installations of manufactured homes in certain high risk flood hazard areas; and

WHEREAS, the Town of Fort Myers Beach Town Council has determined it is in the public interest to adopt the proposed floodplain management regulations that are coordinated with the Florida Building Code.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of Fort Myers Beach that the following floodplain management regulations are hereby adopted.

SECTION 1. RECITALS.

The foregoing whereas clauses are incorporated herein by reference and made a part hereof.

SECTION 2. AMENDMENT OF TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE CHAPTER 6.

The Town of Fort Myers Beach Land Development Code Chapter 6, Article IV, pertaining to Floodplain Regulation, is hereby amended and restated in its entirety with underlining representing new text and strikethrough identifying deleted text.

ARTICLE IV. FLOODPLAIN REGULATIONS

DIVISION 1. GENERAL

Sec. 6-424. Substantial improvement and substantial damage determinations.

For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, will:

- (1) Estimate the market value by adding 20% to the just value provided by the Lee County Property appraiser, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure will be the market value before the damage occurred and before any repairs are made; any appraisal used for the purposes of substantial improvement/substantial damage determinations must be current within one year of work commencing;
- (2) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
- (3) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; the determination requires evaluation of previous permits issued for improvements and repairs as specified in the definition of "substantial improvement;" and for proposed work to repair damage caused by flooding, the determination requires evaluation of previous permits issued to repair flood-related damage as specified in the definition of "substantial damage;" and
- (4) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood-resistant construction requirements of the *Florida Building Code* and this article is required.

DIVISION 9. DEFINITIONS

Sec. 6-494. Definitions.

Market value. The price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in this article, the term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. Market value may be established by a qualified independent appraiser, Actual Cash Value (replacement cost depreciated for age and quality of construction), or tax assessment value ~~adjusted to approximate market value by a factor provided by the Property Appraiser by 20%.~~ Any proposed value submitted via a private appraisal that exceeds the property appraiser's valuation by more than 35 percent may be subject to peer review by a qualified local appraiser or submittal of a new independent appraisal, with the full cost of the review or new appraisal paid by the applicant.

Substantial improvement. Any combination of repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure taking place during a ~~one~~ five year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the building or structure before the improvement or repair is started. For each building or structure, the ~~one~~ five-year period begins on the date of the first permit issued for improvement or repair of that building or structure subsequent to February 4, 2002. If the structure has incurred "substantial damage," any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either: [Also defined in FBC, B, Section 202.]

- (1) Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.
- (2) Any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure.
- (3) {NO CHANGES TO THE REST OF THIS SECTION}

DIVISION 10. FLOOD RESISTANT DEVELOPMENT

Subdivision VII. Other Development

Sec. 6-526. Concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and similar nonstructural uses in coastal high hazard areas (Zone V).

In coastal high hazard areas, concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and similar nonstructural uses are permitted beneath or adjacent to buildings and structures provided the concrete slabs are designed and constructed to be:

- (1) Structurally independent of the foundation system of the building or structure;
- (2) Frangible and not reinforced, so as to minimize debris during flooding that is capable of causing significant damage to any structure; and
- (3) Have a maximum slab thickness of not more than four inches and be cut into 5' x 5' sections.

SECTION 3. APPLICABILITY.

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SECTION 4. INCLUSION INTO THE CODE OF ORDINANCES.

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By: _____
Michelle Mayher, Town Clerk

By: _____
Dennis Boback, Mayor

APPROVED AS TO FORM:

Town Attorney