

ORDINANCE NO. 19-05

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH AMENDING CHAPTER 10, SECTION 10-296, INCLUDING TABLE 10-2, OF THE TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE REGARDING STREET DESIGN AND CONSTRUCTION STANDARDS;; PROVIDING FOR INCLUSION IN THE CODE AND SCRIVENER'S ERRORS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY AND PROVIDING FOR 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, Chapter 10 of the Land Development Code contains regulations regarding street design and construction standards; and

WHEREAS, Town Council desires to update Chapter 10 of the Land Development Code language to clarify, improve, and create consistency among sections; and

WHEREAS, the Town Council has determined it is in the public interest to create an Engineering Standards and Construction Detail document separate from the Land Development Code, while updating the Land Development Code text to reference the new separate document and edit text for consistency; and

WHEREAS, on March 13, 2019 the Town of Fort Myers Beach Local Planning Agency (LPA) reviewed and provided a recommendation of approval to the proposed language by a vote of 7-0; and

WHEREAS, on April 15th, 2019 the Town Council held a first reading of the proposed Ordinance, where they voted to hold a public hearing for a second reading of the proposed Ordinance. The second reading was directed to be advertised and held on May 6th, 2019 at 9 AM to consider the recommendation of the LPA, staff, and testimony of the public and interested parties, as required by Fort Myers Beach Land Development Code (LDC) Section 34-85; and

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF FORT MYERS BEACH AS FOLLOWS:¹

^{1/} Additions to existing text are shown by underline, changes to existing text on second reading are shown by double underline, and deletions are shown as ~~strikethrough~~.

Section 1. The above recitals are true, correct, and incorporated herein by this reference.

Section 2. The Code of Ordinances, Town of Fort Myers Beach, Florida, is hereby amended as set forth in Exhibit "A" attached hereto and incorporated herein by this reference.

Section 3. This ordinance applies within the jurisdiction of the Town of Fort Myers Beach, and to all applications for development, including building permit applications and subdivision proposals, submitted on or after the effective date of this 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 the Town of Fort Myers Beach Land Development Code as appropriate, 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 are in 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 as a whole, or any part thereof, other than the part so declared.

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

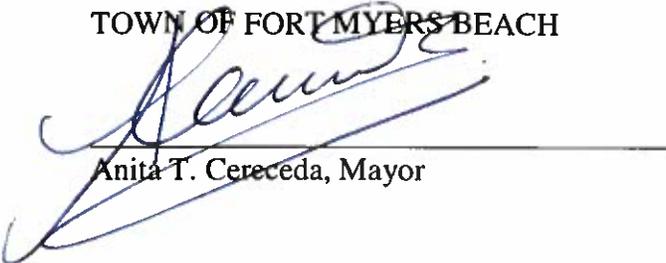
The foregoing Ordinance was adopted by the Town Council upon a motion by Councilmember Joanne Shamp and seconded by Vice Mayor Ray Murphy and upon being put to a roll call vote, the result was as follows:

Anita Cereceda, Mayor	aye
Ray Murphy, Vice Mayor	aye
Joanne Shamp, Councilmember	aye
Rexann Hosafros, Councilmember	aye
Bruce Butcher, Councilmember	aye

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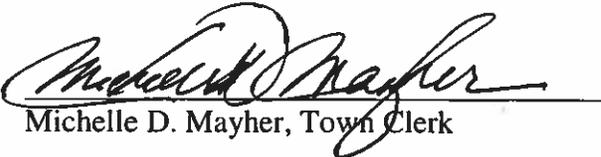
ADOPTED this 6th day of May, 2019 by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

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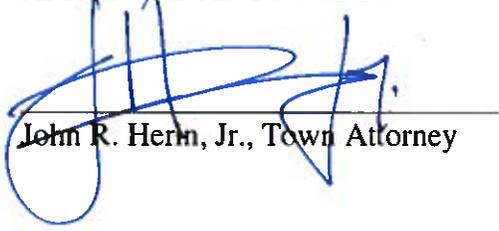
Anita T. Cereceda, Mayor

ATTEST:

A handwritten signature in blue ink, appearing to read "Michelle D. Mayher", written over a horizontal line.

Michelle D. Mayher, Town Clerk

APPROVED AS TO FORM:

A handwritten signature in blue ink, appearing to read "John R. Helm, Jr.", written over a horizontal line.

John R. Helm, Jr., Town Attorney

Sec. 10-296. - Street design and construction standards.

- (a) *Generally.* All streets and alleys shall be designed in accordance with the criteria in Traditional Neighborhood Development Street Design Guidelines or Neighborhood Street Design Guidelines (or successor recommended practices) published by the Institute of Transportation Engineers, and constructed and improved in accordance with the specifications set out in this section, as well as the other requirements of this division. The Fort Myers Beach Engineering Standards and Construction Details shall be adopted and amended by resolution. In the event of a conflict with -this section, the Fort Myers Beach Engineering Standards and Construction Details as may be amended from time-to-time shall govern.
- (b) *Right-of-way or easement width.* All local streets to be established and constructed in accordance with this chapter shall have right-of-way or roadway easement widths selected in accordance with the design criteria in Traditional Neighborhood Development Street Design Guidelines or Neighborhood Street Design Guidelines (or successor recommended practices) published by the Institute of Transportation Engineers.
- (c) *Street design and construction standards.* All street improvements shall comply with the standards and specifications listed in Table 10-2 for the applicable development category, and as provided in the Fort Myers Beach Engineering Standards and Construction Details, as amended.
- (d) *Street development categories.* For purposes of interpreting the specifications contained in Table 10-2, development categories are defined as follows (with densities computed in accordance with § 34-632 of this LDC):
 - (1) *Category A* shall include streets and alleys in commercial developments and all developments not described in categories B and C.
 - (2) *Category B* shall include streets and alleys in residential developments denser than four dwelling units per acre.
 - (3) *Category C* shall include streets and alleys in residential developments with four or fewer dwelling units per acre.

TABLE 10-2. MINIMUM CONSTRUCTION SPECIFICATIONS FOR STREET IMPROVEMENTS	
Category	Minimum Specifications
A-B-C	1. Construction in drainage swales. Allowable construction in drainage swales shall be as specified in § 10-296(o).
A-B-C	2. Piping materials. The types of piping materials allowed in rights-of-way shall be as specified in Lee County's land development code.
A-B-C	3. Curb and gutter type B, F, and drop or shoulder (valley). See FDOT Roadway and Traffic Design Standards, current edition.
A-B-C	4. Roadside swales. Roadside swales may be used in excessively drained and somewhat excessively drained to moderately well-drained soils, except where closed drainage is required by the director —Roadside swales within street rights-of-way must have side slopes no steeper than 3

	<p>horizontal to one vertical. Normal swale sections must be a minimum of 12 inches deep.</p> <p>—Where run-off is accumulated or carried in roadway swales and flow velocities in excess of two feet per second are anticipated, closed drainage or other erosion control measures must be provided.</p> <p>—The director may grant deviations from these requirements under the provisions of § 10-104. However, no violations of SFWMD requirements or any other regulatory requirements may occur through the granting of any such deviations.</p>
A —B-C	<p>5. Subgrade.</p> <p>—a. 12-inch thick (minimum), stabilized subgrade LBR 40. If the LBR value of the natural soil is less than 40, the subgrade must be stabilized in accordance with section 160 of the FDOT standard specifications.</p> <p>—b. Six-inch thick (minimum), stabilized subgrade LBR 40. If the LBR value of the natural soil is less than 40, the subgrade must be stabilized in accordance with section 160 of the FDOT standard specifications.</p>
A —B-C	<p>6. Pavement base.</p> <p>—a. Eight inch compacted limerock.</p> <p>—b. Six inch compacted limerock. Any deviation from these standards must meet the specifications established by FDOT standards.</p>
A —B-C	<p>7. Wearing surface.</p> <p>—a. One and one-half inch asphaltic concrete of FDOT type S-III.*</p> <p>—b. For roads to be publicly maintained, one and one-half inch asphaltic concrete of FDOT type S-III*. The applicant may install two three-quarter inch thick courses of asphalt concrete with the second course to be placed after substantial build-out of the development. An assurance of completion is required for the second course of asphalt. This provision is subject to the approval of the director.** For roads to be privately maintained, one inch asphaltic concrete of FDOT type S-III is acceptable.</p> <p>—* However, the applicant may submit a request for an administrative deviation in accordance with § 10-104 for an alternative design, including but not limited to Portland cement concrete, for public or private streets. The design will be subject to structural analysis for comparison with asphaltic concrete.</p> <p>—** The use of paver block is permitted subject to approval of the director at time of development order approval without the need to file for an administrative deviation pursuant to § 10-104.</p>
A B C	<p>§1. Grassing and mulching. Prior to the acceptance of the streets or the release of the security, the developer will be responsible for ensuring that all swales, parkways, medians, percolation areas, and planting strips are sodded, seeded, or planted, and mulched in</p>

	accordance with section 570 of the FDOT standard specifications.
A B C	<u>92</u> . <i>Street name and regulatory signs.</i> Street name and regulatory signs will be installed by the developer at all intersections and on the streets in the development prior to the acceptance of the streets or the release of the security. Regulatory signs will not be required at parking lot entrances for parking lots containing less than 25 parking spaces.
A B C	<u>103</u> . <i>Street lighting.</i> Street lighting may be installed at the developer's option and expense. Where street lighting is to be provided, the streetlight improvements must be maintained and operated through a covenant which runs with the land in the form of deed restrictions, a homeowners' or condominium association, or such other legal mechanisms as will assure the beneficiaries of the service that the street lighting will be continually operated and maintained. Regardless of the method chosen to provide for the continual maintenance and operation of the streetlights, the beneficiaries of the service must be provided with a legal right to enforce the assurance that the lighting will be continually operated and maintained. The legal documents which provide for the continual maintenance and operation of the lighting may only be accepted after they are reviewed and approved by the town attorney for compliance with this section. In the alternative, the town may satisfy this requirement by establishing a street lighting assessment which includes operation and maintenance of the streetlights.
A B C	<u>114</u> . <i>Street and intersection improvements; traffic control devices.</i> a. The developer must design and construct such traffic control devices and acceleration, deceleration, turning, or additional lanes, referred to in this subsection as traffic improvements, as may be needed. b. Traffic control devices and acceleration, deceleration, turning, and additional lanes must be indicated on the development plan. These traffic control devices must be designed and shown on the development plans as per MUTCD standards. c. Traffic control devices installed in accord with Table 9-4-11b may be mounted on a nonstandard type of support system as described in the Traffic Control Devices Handbook (FHWA publication), provided that mounting height, location standards, and all other standards as described in sections 2A-24 through 2A-27 of the MUTCD may not be compromised, and all such supports must be of break away design. The sign support system may not provide borders around the sign that have the effect of changing the required shape, message, or border area of the sign. An enforceable agreement providing for maintenance and upkeep of such signs by the installer must be provided to the director. This agreement must include the name, address, and phone number of a contact person who will represent the installing party.
A B C	<u>125</u> . <i>Underdrains.</i> Underdrains may be required on both sides of streets if, in the opinion of the director, soils data indicate that such drains would be necessary. In cases where there is a

prevalence of soils that exhibit adverse water table characteristics, underdrains or fill or some other acceptable alternative that will provide necessary measures to maintain the structural integrity of the road will be required. The determination of need will be made by reference to the applicable portions of the most recent edition of the Soil Survey for Lee County, Florida, as prepared by the U.S. Department of Agriculture, Soil Conservation Service, or according to information generated by the developer's engineer.

a. Wherever road construction or lot development is planned in areas having soil types with unacceptable water table characteristics, underdrains or fill must be provided and shown on the engineering plans. Underdrains must be designed with outlets at carefully selected discharge points. Erosion control measures must be provided as needed at all discharge points.

b. Wherever road cuts in otherwise suitable soils indicate that the finish grade will result in a road surface to water table relationship that adversely exceeds the degree of limitation stated above, underdrains or other acceptable alternative that will provide necessary measures to maintain the structural integrity of the road will be required.

- (e) *Conformance with state standards.* All construction materials, methods, and equipment shall conform to the requirements of the FDOT Standard Specifications for Road and Bridge Construction, current edition, and such other editions, amendments, or supplements as may be adopted by the FDOT.
- (f) *Dedication of right-of-way and completion of improvements.* Prior to acceptance of the streets or the release of security, the developer shall dedicate such rights-of-way and complete such improvements, or provide funds for the completion or installation of such improvements in conformance with the standards and specifications of this chapter.
- (g) *Reserved.*
- (h) *Reserved.*
- (i) *Reserved.*
- (j) *Intersection design.* Intersections shall be designed in accordance with the criteria in Traditional Neighborhood Development Street Design Guidelines or Neighborhood Street Design Guidelines (or successor recommended practices) published by the Institute of Transportation Engineers. This shall include the angles of intersecting streets and the radius of curbs and property lines at intersections.
- (k) *Culs-de-sac.* Dead-end streets, designed to be so permanently, are generally not permitted but may be unavoidable due to adjoining wetlands, canals or preserves. When the director deems a dead-end street to be unavoidable, the dead end shall be provided with a cul-de-sac that is designed in accordance with criteria in Traditional Neighborhood Development Street Design Guidelines or Neighborhood Street Design Guidelines (or successor recommended practices) published by the Institute of Transportation Engineers.
- (l) *Reserved.*
- (m) *Privately maintained accessways.* The following privately maintained accessways shall not be required to meet the minimum roadway right-of-way widths specified in subsection (b) of this section:
 - (1) Parking lot aisles (as defined in this chapter) - minimum dimensions are provided in division 26, article IV, chapter 34 of this LDC;

- (2) Parking lot accesses (as defined in this chapter) - minimum dimensions are provided in division 26, article IV, chapter 34 of this LDC;
 - (3) Driveways (as defined in this chapter); and
 - (4) Accessways which meet the following three requirements:
 - a. Provide vehicle access to 100 or fewer multifamily residential units;
 - b. Meet the dimensional requirements for parking lot accesses in division 26, article IV, chapter 34 of this LDC; and
 - c. Provide for utility easements in accordance with § 10-355(1) of this chapter if utilities are to be located in or adjacent to the accessway.
- (n) *Streets and driveways in wetlands.* Notwithstanding other provisions of this chapter, new roads or driveways permitted in wetlands in accordance with Policy 4-B-9 or 6-D-4 of the Fort Myers Beach Comprehensive Plan shall be bridged so that the predevelopment volume, direction, distribution, and surface water hydroperiod will be maintained.
- (o) *Work in town, county or state right-of-way.*
- (1) Except for emergency repair work, no individual, firm, or corporation may commence any work within public rights-of-way or easements without first having obtained a permit from the entity with maintenance responsibility. For the purposes of this section only, "work" means:
 - a. Excavation, grading, or filling activity of any kind, except the placement of sod on existing grade; or
 - b. Construction activity of any kind except the placement of a mail or newspaper delivery box in accordance with § 34-638 of this LDC.
 - (2) The town will not issue a permit for any private road to connect to any town- or county-maintained road without approval of drainage plans prepared by a registered engineer. (See § 10-296 of this chapter for approved utility piping materials.)
 - (3) For single residential buildings of two dwelling units or less on town- or county-maintained streets, the ~~county department of transportation~~ applicant will do all necessary field survey work to ~~establish field stake in accordance with design plans for~~ the proper grade, pipe diameter, and length for driveway culverts. Prior to beginning construction, a residential driveway permit must be obtained from ~~the Lee County Department of Fort Myers Beach~~ Community Development in accordance with the ~~county's Town's~~ administrative code ~~AC 11-42~~ and ~~permitting requirements~~.
 - ~~(4) Construction in drainage swales. There are three conditions of roadside drainage (not including curb and gutter) which govern the construction of any structure in the drainage swale:~~
 - ~~a. Condition A. Drainage swales of 0.7 feet (8 ¼ inches) or less below the edge of road pavement, or swales or ditches designed to provide driveway access without culvert pipe.~~
 - ~~b. Condition B. Drainage swales beginning 0.70 feet (8 ¼ inches) below the edge of the road to:~~
 - ~~1. Residential. Depth equal to 0.70 feet plus pipe diameter and the top wall thickness (i.e., 2.15 feet (25 ¾ inches)) for 15-inch RCP; or~~
 - ~~2. Commercial. Depth equal to one foot plus the pipe diameter and the top wall thickness (i.e., 2.45 feet (29 3/8 inches)) for 15-inch RCP.~~
 - ~~c. Condition C. Beginning at:~~
 - ~~1. Residential. Depth equal to 0.70 feet plus the pipe diameter and the top wall thickness; or~~
 - ~~2. Commercial. Depth equal to one foot plus the pipe diameter and the top wall thickness and to any depth greater than the above.~~

- ~~(5) No pipe, either driveway or continuous swale pipe, will be permitted under Condition A. For this condition, driveways must be paved following the slope of the designed swale grade.~~
- ~~(6) For Condition B, property owners may install a properly sized pipe in the swale for driveway purposes providing they meet the conditions of subsections (1) and (2) in the section of specifications of structures.~~
- ~~(7) For Condition C, the owners may install either properly sized driveway pipe or continuous pipe across the property. If continuous property pipe is proposed, one or more standard catch basins with grates will be required as dictated by the specific conditions of the area.~~