

ORDINANCE 00-11

AN ORDINANCE REPEALING CHAPTER 2 OF THE TOWN OF FORT MYERS BEACH TRANSITIONAL LAND DEVELOPMENT REGULATIONS; PROVIDING AUTHORITY; REPEALING CHAPTER 2 OF THE TRANSITIONAL LAND DEVELOPMENT REGULATIONS; ADOPTING A NEW CHAPTER 2 OF THE LAND DEVELOPMENT CODE ESTABLISHING A CONCURRENCY MANAGEMENT SYSTEM, PROVIDING FOR DEVELOPMENT AGREEMENTS, IMPOSING IMPACT FEES, AND PROVIDING FOR A CODE ENFORCEMENT HEARING EXAMINER FOR THE TOWN; PROVIDING **ARTICLE I - IN GENERAL** -- REQUESTS FOR INTERPRETATION OF A CODE PROVISION, COMPLIANCE AGREEMENTS; **ARTICLE II - CONCURRENCY MANAGEMENT SYSTEM** -- STATUTORY AUTHORITY, APPLICABILITY OF ARTICLE, INTENT OF ARTICLE, PURPOSE OF ARTICLE, DEFINITIONS, APPLICABILITY AND EXEMPTIONS, ANNUAL CONCURRENCY ASSESSMENT, MEASURING THE CAPACITY OF PUBLIC FACILITIES FOR ADDITIONAL DEVELOPMENT, CONCURRENCY TIMING, VESTED RIGHTS, VARIANCES, APPEALS, REVOCATION OF CONCURRENCY CERTIFICATES, NONLIABILITY OF DIRECTOR, FURNISHING FALSE INFORMATION; **ARTICLE III - DEVELOPMENT AGREEMENTS** -- STATUTORY AUTHORITY, APPLICABILITY OF ARTICLE, INTENT OF ARTICLE, PURPOSE OF ARTICLE, DEFINITIONS, APPLICATIONS FOR DEVELOPMENT AGREEMENTS, MINIMUM REQUIREMENTS OF A STATUTORY DEVELOPMENT AGREEMENT, NOTICES AND HEARINGS, AMENDMENT OR CANCELLATION OF DEVELOPMENT AGREEMENT BY MUTUAL CONSENT, RESERVATION OF HOME RULE AUTHORITY, CONFLICTS BETWEEN DEVELOPMENT AGREEMENT AND OTHER LAND DEVELOPMENT REGULATIONS, APPEALS; **ARTICLE IV - IMPACT FEES** -- STATUTORY AUTHORITY, APPLICABILITY OF ARTICLE, INTENT AND PURPOSE OF ARTICLE, DEFINITIONS AND RULES OF CONSTRUCTION, IMPOSITION, COMPUTATION OF AMOUNT, PAYMENT, TRUST FUNDS, USE OF FUNDS, REFUND OF FEES PAID, EXEMPTIONS, CREDITS, APPEALS, ENFORCEMENT OF ARTICLE, PENALTY, FURNISHING FALSE INFORMATION; **ARTICLE V - CODE ENFORCEMENT HEARING EXAMINER** -- INTENT, CREATION OF POSITION OF HEARING EXAMINER, APPLICABILITY, DEFINITIONS, ENFORCEMENT PROCEDURE, CONDUCT OF HEARING, POWERS OF THE CODE ENFORCEMENT HEARING EXAMINER, PENALTIES AND LIENS, APPEALS, NOTICES, CITATION PROCEDURES, PENALTIES, CONFLICT; **ARTICLE VI - IMPLEMENTING PUBLIC CAPITAL IMPROVEMENTS** -- APPLICABILITY, PURPOSE AND INTENT, PROCEDURES; PROVIDING SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

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

SECTION 1. Authority. 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. Repeal Of Chapter 2 of the Transitional Land Development

Regulations. By the authority of Section 15.08 (c) of the Town Charter, Chapter 2 of the transitional land development regulations are repealed. Transitional Chapter 2 contains the following sections: Article I, In General; Article II, Concurrency Management System; Article III, Development Agreements; Article IV, Transfer of Development Rights; Article V, Unauthorized Communications; Article VI, Impact Fees; and Article VII, Hearing Examiner.

SECTION 3. Adoption of New Chapter 2 of the Land Development Code. The new Chapter 2 of the Town of Fort Myers Beach land development code, entitled "Administration," shall be as contained in the attached Exhibit A. The new Chapter 2 contains the following sections: Article I, In General; Article II, Concurrency Management System; Article III, Development Agreements; Article IV, Impact Fees; and Article V, Code Enforcement Hearing Examiner. Providing ARTICLE I - IN GENERAL - Requests for interpretation of a code provision, Compliance agreements; ARTICLE II - CONCURRENCY MANAGEMENT SYSTEM -- Statutory authority, Applicability of article, Intent of article, Purpose of article, Definitions, Applicability and exemptions, Annual concurrency assessment, Measuring the capacity of public facilities for additional development, Concurrency timing, Vested rights, Variances, Appeals, Revocation of concurrency certificates, Nonliability of director, Furnishing false information; ARTICLE III - DEVELOPMENT AGREEMENTS -- Statutory authority, Applicability of article, Intent of article, Purpose of article, Definitions, Applications for development agreements, minimum requirements of a statutory development agreement, Notices and hearings, Amendment or cancellation of development agreement by mutual consent, Reservation of home rule authority, Conflicts between development agreement and other land development regulations, Appeals; ARTICLE IV - IMPACT FEES -- Statutory authority, Applicability of article, Intent and purpose of article, Definitions and rules of construction, Imposition, Computation of amount, Payment, Trust funds, Use of funds, Refund of fees paid, Exemptions, Credits, Appeals, Enforcement of article, Penalty, Furnishing false information; ARTICLE V - CODE ENFORCEMENT HEARING EXAMINER -- Intent, Creation of position of hearing examiner, Applicability, Definitions, Enforcement procedure, Conduct of hearing, Powers of the code enforcement hearing examiner, Penalties and liens, Appeals, Notices, Citation procedures, Penalties, Conflict; ARTICLE VI - IMPLEMENTING PUBLIC CAPITAL IMPROVEMENTS -- Applicability, Purpose and intent, Procedures. New language is indicated with underlining and repealed language is indicated with ~~strike-throughs~~.

SECTION 4. Severability. If any one of the provisions of this ordinance should be held contrary to any express provision of law or contrary to the policy of express law, although not expressly prohibited, or against public policy, or shall for any reason whatsoever

beheld invalid, then such provision shall be null and void and shall be deemed separate from the remaining provisions of this ordinance, and in no way affect the validity of all other provisions of this ordinance.

SECTION 5. Effective Date. This ordinance shall become effective immediately upon its adoption, except that the new impact fee schedule in Article IV shall not become effective until July 1, 2000.

The foregoing ordinance was enacted by the Town Council upon a motion by Council Member Murphy and seconded by Council Member Cereceda and, upon being put to a vote, the result was as follows:

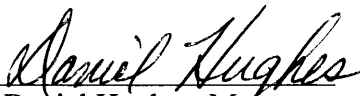
Anita T. Cereceda	<u>aye</u>
Daniel Hughes	<u>aye</u>
Garr Reynolds	<u>aye</u>
Ray Murphy	<u>aye</u>
Terry Cain	<u>aye</u>

DULY PASSED AND ENACTED this 29th day of June, 2000.

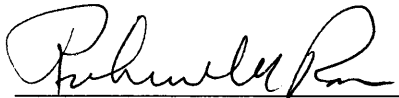
ATTEST:

By: 
Marsha Segal-George, Town Clerk

TOWN OF FORT MYERS BEACH

By: 
Daniel Hughes, Mayor

Approved as to form by:


Richard V.S. Roosa, Town Attorney