

ORDINANCE NO. 09-03

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH ENTITLED "SEVENTH AMENDMENT TO THE FORT MYERS BEACH COMPREHENSIVE PLAN"; ESTABLISHING PURPOSE AND INTENT; AMENDING CHAPTER 1, INTRODUCTION; AMENDING CHAPTER 4, FUTURE LAND USE ELEMENT; AMENDING CHAPTER 5, COASTAL MANAGEMENT ELEMENT; AMENDING CHAPTER 6, CONSERVATION ELEMENT; AMENDING CHAPTER 7, TRANSPORTATION ELEMENT; AMENDING CHAPTER 8, UTILITIES ELEMENT; AMENDING CHAPTER 9, STORMWATER MANAGEMENT ELEMENT; AMENDING CHAPTER 11, CAPITAL IMPROVEMENTS ELEMENT; AMENDING CHAPTER 14, INTERGOVERNMENTAL COORDINATION ELEMENT; AMENDING CHAPTER 16, PUBLIC SCHOOLS ELEMENT; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Chapter 166, *Florida Statutes*, empowers the Town Council of the Town of Fort Myers Beach to prepare and enforce a comprehensive plan for the future development and redevelopment of the town; and

WHEREAS, in the exercise of this authority the Town Council adopted an entirely new Fort Myers Beach Comprehensive Plan through Ordinance No. 98-14; and

WHEREAS, in the further exercise of this authority the Town Council has adopted a first set of amendments to the Fort Myers Beach Comprehensive Plan through Ordinance No. 00-15; a second set through Ordinance No. 01-07; a third set through Ordinance No. 02-07; a fourth set through Ordinance No. 03-13; a fifth set through Ordinance No. 04-10; and a sixth set through Ordinance No. 04-13; and

WHEREAS, the Town Council has determined that certain additional amendments to that plan are needed to implement its Evaluation/Appraisal Report and to comply with recent amendments to state law, and has therefore directed the necessary research and analysis in support thereof; and

WHEREAS, in consideration of these amendments, the Fort Myers Beach Local Planning Agency held public hearings on March 18, May 20, and November 18, 2008, and the Town Council held its transmittal public hearings on November 17 and December 15, 2008, at which time it voted to transmit the proposed amendments for review by state, regional, and local agencies; and

WHEREAS, the Florida Department of Community Affairs, by letter dated March 13, 2009, provided the town with its objections, recommendations, and comments; and

WHEREAS, pursuant to Section 163.3184, *Florida Statutes*, the Town Council scheduled its first public hearing to consider this ordinance on June 15, 2009, which was continued until July 20, 2009, and then held its second and final public hearing on this ordinance and these amendments on August 17, 2009.

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

SECTION 1. Incorporation of Recitals. The above "whereas" clauses are incorporated herein as though fully set forth.

SECTION 2. Purpose and Intent. This ordinance is enacted to carry out the purpose and intent of, and exercise the authority set out in, the Local Government Comprehensive Planning and Land Development Regulation Act, Sections 163.3161 through 163.3217 and Chapter 166, *Florida Statutes*, as amended.

SECTION 3. Structure of the Fort Myers Beach Comprehensive Plan. The existing Fort Myers Beach Comprehensive Plan is published as a single volume that contains the adopted portions of the plan and a narrative that summarizes the data, analysis, and extensive research upon which each element of the plan was based. The current plan is organized into 15 chapters, one for each element of the plan. Only the following specific portions of that volume have been formally adopted as the Fort Myers Beach Comprehensive Plan:

All of Chapters 1, 2, and 15.

All goals, objectives, and policies found in Chapters 3 through 14.

The "Future Land Use Map" (Figure 16 in the Future Land Use Element).

The "Future Transportation Map" (Figure 18 in the Transportation Element).

The five-year schedule of capital improvements (Table 11-7 in the Capital Improvements Element)

The amendments being made by this Ordinance affect both the narrative and adopted portions of the plan, as specifically described below. For amendments to existing elements, language being added is underlined and language being deleted is ~~struck through~~.

SECTION 4. Application 2008-01-TEXT. The Fort Myers Beach Comprehensive Plan is hereby amended by completely revising the narrative portion of the Capital Improvements Element; by deleting the adopted five-year schedule of capital improvements (Table 11-7, found on Page 11-22) and by replacing it with a new Table 11-7; by amending Capital Improvements Policies 11-A-1, 11-A-3, 11-B-1, 11-B-5, 11-B-10, and 11-C-3; by adding Capital Improvements Policies 11-A-7 and 11-B-4.5. Exhibit A shows all changes being made in response to Application 2008-01-TEXT.

SECTION 5. Application 2008-02-TEXT. The Fort Myers Beach Comprehensive Plan is hereby amended by adding a new Public Schools Element to the comprehensive plan. This new Chapter 16 contains a narrative that summarizes the data, analysis, and extensive research upon which this element is based and an adopted portion of the element which consists of goals, objectives, and policies. This amendment also revises Capital Improvements Policy 11-A-7 and Intergovernmental Coordination Policy 14-A-4. Exhibit B shows all changes being made in response to Application 2008-02-TEXT.

SECTION 6. Application 2008-03-TEXT. The Fort Myers Beach Comprehensive Plan is hereby amended regarding "repetitive loss" properties under the National Flood Insurance Program by revising the narrative of the Future Land Use and Coastal Management Elements; by amending Policy 4-D-1 of the Future Land Use Element; and by amending Policy 5-C-7 of the Coastal Management Element. Exhibit C shows all changes being made in response to Application 2008-03-TEXT.

SECTION 7. Application 2008-04-TEXT. The Fort Myers Beach Comprehensive Plan is hereby amended regarding "pre-disaster buildback" by revising the narrative and by amending Policy 4-E-1 of the Future Land Use Element. Exhibit D shows all changes being made in response to Application 2008-04-TEXT.

SECTION 8. Application 2008-05-TEXT. The Fort Myers Beach Comprehensive Plan is hereby amended regarding "guest units" by revising the narrative and by amending Policy 4-C-6 of the Future Land Use Element. Exhibit E shows all changes being made in response to Application 2008-05-TEXT.

SECTION 9. Application 2008-06-TEXT. The Fort Myers Beach Comprehensive Plan is hereby amended regarding short-term lodging establishments by revising the narrative and by adding Policies 4-A-9 and 4-A-10 into the Future Land Use Element. Exhibit F shows all changes being made in response to Application 2008-06-TEXT.

SECTION 10. Application 2008-07-TEXT. The Fort Myers Beach Comprehensive Plan is hereby amended regarding maintenance responsibility for Estero Boulevard by amending Policy 7-B-3 and Objective 7-E of the Transportation Element. Exhibit G shows all changes being made in response to Application 2008-07-TEXT.

SECTION 11. Application 2008-08-TEXT. The Fort Myers Beach Comprehensive Plan is hereby amended regarding left-turns on Estero Boulevard at Times Square by revising the narrative and by deleting Policy 7-H-3 of the Transportation Element. Exhibit H shows all changes being made in response to Application 2008-08-TEXT.

SECTION 12. Application 2008-09-TEXT. The Fort Myers Beach Comprehensive Plan is hereby amended regarding traffic impact analyses for new developments by revising the narrative and by amending Policy 7-J-2 of the Transportation Element. Exhibit I shows all changes being made in response to Application 2008-09-TEXT.

SECTION 13. Application 2008-10-TEXT. The Fort Myers Beach Comprehensive Plan is hereby amended regarding timing for completion of a stormwater master plan by amending Objective 9-F of the Stormwater Management Element. Exhibit J shows all changes being made in response to Application 2008-10-TEXT.

SECTION 14. Application 2008-11/12-TEXT. The Fort Myers Beach Comprehensive Plan is hereby amended by revising the water supply narrative, amending Policies 8-B-1 and 8-C-6, and adding Policies 8-A-4 and 8-A-5 in the Utilities Element; by amending Policy 6-1-3 in the Conservation Element; by amending Policy 11-A-7 in the Capital Improvements Element; and by amending Policy 14-A-5 in the Intergovernmental Coordination Element. Exhibit K shows all changes being made in response to Application 2008-11/12-TEXT.

SECTION 15. Application 2008-13-TEXT. The Fort Myers Beach Comprehensive Plan is hereby amended regarding the state's new definition of "coastal high-hazard area" by revising the narrative of the Coastal Management Element and by adding Policy 5-A-6 to the Coastal Management Element. Exhibit L shows all changes being made in response to Application 2008-13-TEXT.

SECTION 16. Application 2008-14-MAP. The Fort Myers Beach Comprehensive Plan is hereby amended regarding the state's new definition of "coastal high-hazard area" by adding a map to the Future Land Use Map series, by amending Policy 4-B-2 of the Future Land Use Element, and by amending Chapter 1 to indicate that this new map is an adopted part of the plan. Exhibit M shows all changes being made in response to Application 2008-14-MAP.

SECTION 17. 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 be held 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 18. Effective Date. This ordinance shall become effective immediately upon adoption. However, the comprehensive plan amendments contained herein shall not take effect until the date a final order is issued by the Florida Department of Community Affairs or the Administration Commission finding the amendments to be in compliance in accordance with Chapter 163.3184, *Florida Statutes*.

The foregoing ordinance was enacted by the Town Council upon a motion by Councilmember Babcock and seconded by Councilmember List and, 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	<u>aye</u>	Jo List	<u>aye</u>
Bob Raymond	<u>absent</u>		

DULY PASSED AND ENACTED this 17th day of August, 2009.

ATTEST:

BY: 
Michelle Mayher, Town Clerk

TOWN OF FORT MYERS BEACH

BY: 
Larry Kiker, Mayor

Approved as to legal form and sufficiency:

BY: 
Anne Dalton, Esquire, Town Attorney