



Fort Myers Beach Management & Planning Session

Town Hall Council Chambers
2731 Oak Street
Fort Myers Beach, FL 33931
Thursday, March 13, 2025

Agenda

9:00 AM

ORDER OF BUSINESS

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE

III. ITEMS FOR DISCUSSION

A. Charter Review Commission

Discussion of Charter Review Process

B. Proposed Ordinance; Payment of Fees / Charges for Review prior to issuance of permit(s)

DISCUSSION OF A DRAFT ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA SUGGESTED BY THE LAND PLANNING AGENCY TO AMEND SECTION 34-53 OF CHAPTER 34, ARTICLE II, DIVISION 1 OF THE LAND DEVELOPMENT CODE REGARDING ACCEPTANCE OF PAYMENT OF FEES AND CHARGES FOR REVIEW OF ANY APPLICATION OR ISSUANCE OF A PERMIT, INCLUDING INSPECTIONS, UNTIL ALL FEES AND CHARGES DUE THE TOWN INCLUDING BUT NOT LIMITED TO EXPENDITURES FOR NOTICING, ADVERTISING, ADDITIONAL PROFESSIONAL SERVICES, OUTSTANDING UTILITY BILLS OR CODE ENFORCEMENT FINES OR LIENS HAVE BEEN PAID AND THE PROPERTY IS IN COMPLIANCE WITH ALL APPLICABLE TOWN CODES AND ORDINANCES UNLESS REVIEW OF THE APPLICATION IS NEEDED FOR SAFETY PURPOSES OR FOR COMPLIANCE WITH TOWN CODES AND ORDINANCES; PROVIDING FOR SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS; CONFLICTS OF LAW; AND PROVIDING AN EFFECTIVE DATE.

C. Proposed Ordinance; Notices

DISCUSSION OF A DRAFT ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING LAND DEVELOPMENT CODE SECTION 34-236 RELATED TO NOTICES SUGGESTED BY THE LOCAL PLANNING AGENCY.

D. Discussion - Temporay Housing**DISCUSSION OF STATUS OF TEMPORARY HOUSING ON FORT MYERS BEACH REQUESTED BY TOWN COUNCIL****IV. AGENDA MANAGEMENT**

A. March 2025

V. ADJOURNMENT

NOTE: THIS MEETING IS STREAMED LIVE ON YOUTUBE.

IF A PERSON DECIDES TO APPEAL A DECISION MADE BY THE COUNCIL IN ANY MATTER CONSIDERED AT THIS MEETING/HEARING, SUCH PERSONS MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS MADE, TO INCLUDE THE TESTIMONY AND EVIDENCE UPON WHICH ANY SUCH APPEAL IS TO BE BASED.



For special accommodation, please notify the Town Clerk's Office at least 72 hours in advance. (239) 765-0202

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.

1. **Request:**

Meeting Date: March 13, 2025

Discussion of Charter Review Process

Why the action is necessary:

What the action accomplishes:

2. **Agenda:**

ITEMS FOR DISCUSSION

3. **Requirement/Purpose:**

5. **Background:**

Section 13.03 of the FMB Town Charter requires that the Charter is reviewed at least every 10 years. The last Charter review was completed in March 2015. The Charter is reviewed by a five-member charter review commission, which is appointed and any expenses for operation of the Commission is paid by the Town. The last Charter Review Commission began meeting in October 2014 and met 9 times before it gave a recommendation to the Town Council for inclusion on the March 2016 ballot.

The Town Council must appoint members to the Charter Review Commission at least 6 months before the next scheduled election, which is November 3, 2026. Therefore, the Town Council must appoint members no later than May 1, 2026. However, the appointment of members to review the Charter should occur way in advance of May 1, 2026 to allow the Commission adequate time for review and discussion of the current Charter.

Once appointed, the Charter Review Commission is tasked with completing its work and presenting any recommendations to the Town Council for a change to the Charter no later than 60 days before the election. The Town has been advised by the Lee County Supervisor of Elections that the deadline for inclusion on the November 3, 2026 ballot is Monday, July 6, 2026 before 5 PM. Therefore, the Town Council must hold a minimum of two advertised public hearings, at the latest during the month of June 2026 to approve, reject or modify the proposed changes to the Charter prior to placing any proposed changes on the scheduled election ballot. If the Town Council chooses to place a change on the ballot, the Town Council's action must be completed by adoption of an ordinance.

Attachments:

1. FMB Town Charter 2016

Financial Impact:

6. **Alternative Action**

7. **Staff Recommendations:**

8. **Recommended Approval:**

nancy stuparich, Town Attorney

Date: February 05, 2025

Amy Baker, Town Clerk

Date: February 05, 2025

Andy Hyatt, Town Manager

Date: March 07, 2025

The Town of Fort Myers Beach

Incorporated December 1995



CHARTER

Adopted April 2016

ARTICLE I.	<u>CORPORATE NAME; PURPOSE OF THE CHARTER</u>
ARTICLE II.	<u>TERRITORIAL BOUNDARIES</u>
ARTICLE III.	<u>GENERAL POWERS OF THE MUNICIPALITY</u>
ARTICLE IV.	<u>CHARTER OFFICERS</u>
ARTICLE V.	<u>NOMINATIONS AND ELECTIONS; TERMS OF OFFICE</u>
ARTICLE VI.	<u>TOWN MANAGER</u>
ARTICLE VII.	<u>TOWN CLERK</u>
ARTICLE VIII.	<u>TOWN ATTORNEY</u>
ARTICLE IX.	<u>ADMINISTRATIVE DEPARTMENTS</u>
ARTICLE X.	<u>ORDINANCES AND RESOLUTIONS</u>
ARTICLE XI.	<u>FINANCIAL PROCEDURES</u>
ARTICLE XII.	<u>INITIATIVE AND REFERENDUM</u>
ARTICLE XIII.	<u>CHARTER AMENDMENTS</u>
ARTICLE XIV.	<u>SEVERABILITY</u>

ARTICLE I. CORPORATE NAME; PURPOSE OF THE CHARTER

Sec. 1.01. Town of Fort Myers Beach.

The municipality hereby established shall be known as the Town of Fort Myers Beach, Florida.

Sec. 1.02. Purpose of the charter.

This charter is ordained and established by the people of the Town of Fort Myers Beach, Florida, to promote the general welfare and common good of the community by providing the framework for a municipal corporation to exercise municipal home rule powers under the Constitution and laws of the State of Florida.

ARTICLE II. TERRITORIAL BOUNDARIES

Sec. 2.01 Boundaries of the Town of Fort Myers Beach.

The territorial boundaries of the Town of Fort Myers Beach upon the date of incorporation shall include the following areas situated in the County of Lee, State of Florida:

A corporate limit lying offshore from Estero Island, which line is described as follows: all that part of Lee County situated within Estero Island and the area within 1,000 feet in the Gulf of Mexico and 1,000 feet in the inland bays, and parallel with the shoreline of said Estero Island, excluding all of San Carlos Island, Black Island and, structures exclusively attached thereto.

Sec. 2.02. Extension of the corporate limits; annexation.

The corporate limits of the Town of Fort Myers Beach may be revised as provided by general law.

ARTICLE III. GENERAL POWERS OF THE MUNICIPALITY

The Town of Fort Myers Beach shall have all governmental, corporate, and proprietary powers to enable it to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes except as otherwise provided by law. The powers of the Town of Fort Myers Beach shall be construed liberally in favor of the municipality, limited only by the Constitution, general law, and specific limitations contained herein.

Sec. 3.02. Joint exercise of powers.

The town may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation by contract or otherwise, with any one or more states, counties, municipalities, or any agencies thereof, or the United States or any agency thereof.

ARTICLE IV. CHARTER OFFICERS

Sec. 4.01. Council members; elections.

(a) There shall be a town council, hereinafter referred to as the council, with all legislative powers of the town vested therein, consisting of five council members, all of whom shall be elected from the town at-large.

(b) Council seats shall be designated as seats #1, #2, #3, #4, and #5. All qualified candidates shall be deemed to be seeking election to all open council seats. Assignment of open seat numbers shall be alphabetically by incoming Council members' last names.

(c) Each member of the council shall be a resident of the town and a registered voter and shall have resided within the corporate limits of the municipality for a minimum of 1 year prior to qualifying for election.

(d) The council are elected officials who are accountable to the citizens at regularly held elections and who are subject to recall as provided by law. The citizens, through these processes, have the opportunity to elect, reelect, or dismiss their elected officials whose promise of performance or actual performance in office best reflects the policies which the citizens desire to implement in the government of the town.

(e) Policy making is the sole prerogative of the elected council. Administrative staff, whether hired or appointed under terms of this charter, is subordinate to the elected officials, whose power derives from the consent of, and election by, the citizens of the town.

(f) Except as otherwise prescribed herein or provided by law, legislative and police powers of the town shall be vested in the council, including the establishment of boards, commissions, and committees. The council shall provide for the exercise of its powers and for the performance of all duties and obligations imposed on the municipality by law.

Sec. 4.02. Mayor.

At the first meeting after the first Tuesday after the first Monday in November, the council, by majority vote, shall elect from its membership a mayor. The mayor shall serve as chairperson during meetings of the council and shall serve as the head of municipal government for the purpose of execution of legal documents as required by ordinance. The mayor shall also serve as the ceremonial head of the town.

Sec.4.03. Vice mayor.

At the first meeting after the first Tuesday after the first Monday in November, the council, by a majority vote, shall elect from among its membership a vice mayor who shall serve as mayor during the absence or disability of the mayor and, if a vacancy occurs, shall become interim mayor pursuant to section 4.08 of this charter.

Sec. 4.04. Prohibitions.

(a) Neither the council, nor any individual member of the council, shall in any manner dictate the employment or removal of any employee other than the town manager and town attorney. No individual member of the council shall give orders to any officer or employee of the town. Recommendations for the improvements in the town government operations shall come through the town manager, but each member of the council shall be free to discuss or recommend improvements to the town manager, and the council is free to direct the town manager to implement specific recommendations for improvement in town government operations. Violations of this Section of the Charter shall constitute malfeasance within the meaning of Section 100.361, Florida Statutes, as may be amended.

(b) No present or former elected town official shall hold any compensated appointive office or employment with the town until 1 year after the expiration of the official's elected term.

Sec. 4.05. Compensation.

(a) Effective April 1, 2016, base pay for the Mayor will be \$19,200 annually and Council Members will be \$16,800 annually as compensation for their services. Compensation shall be revised annually based on across-the-board adjustments budgeted for staff and administered at the same time as Town employees.

(b) The council may provide for reimbursement of actual expenses incurred by its members while performing their official duties.

Sec. 4.06. Vacancies.

The office of a member of the council shall become vacant upon the member's inability to fulfill the duties of the office, resignation, or removal from office as authorized by law or this charter.

Sec. 4.07. Forfeiture of office.

A member of the council may forfeit the office, if the member:

- (a) Lacks at any time during the term of office any qualification for the office prescribed by this charter or by law;
- (b) Violates any express prohibition of this charter;
- (c) Is convicted of a felony or criminal misdemeanor which misdemeanor involves the office of town council; or
- (d) Misses three consecutive regularly scheduled council meetings without an excused absence.
- (e) Does not maintain a permanent residence in the Town of Fort Myers Beach.

If any of these events should occur, a hearing shall automatically be conducted at the next regularly scheduled council meeting, and the member may be declared to have forfeited office by majority vote of the council.

Sec. 4.08. Filling of vacancies.

A vacancy on the council, except for the position of mayor, shall be filled by appointment by majority vote of the council members remaining, and said appointment shall be effective until a successor is chosen at the next regular election. In the event that a majority of the members are removed by death, disability, law, or forfeiture of office, the governor shall appoint an interim council that shall call a special election to be held within 45 days following the occurrence of the vacancies to elect a new council. In the event that the mayor becomes unable to fulfill the duties of office, ceases to be qualified, or is removed from office as provided by law or this charter, the vice mayor shall assume the full powers and duties of the mayor. The vice mayor shall assume the office of mayor for the remainder of the unexpired term. The council vacancy thus created shall be filled by an interim appointment under the provisions of this charter, to be effective only until such time as the mayor resumes office or until the expiration of the term of the office, whichever occurs first.

Sec. 4.09. Judge of qualifications.

The council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office and for that purpose shall have power to subpoena witnesses, administer oaths, and require the production of evidence. A council member charged with conduct constituting grounds for forfeiture of this office shall be notified by the town clerk by certified mail and shall be entitled to a public hearing at the next regularly scheduled meeting of the council as outlined in section 4.07 of this charter. Notice of such hearing shall be published in one or more newspapers of general circulation in the town at least 1 week in advance of the hearing.

Sec. 4.10. Independent financial audit.

The council shall provide for an independent annual financial audit of all town accounts and may provide for more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or a firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the town government or in any of its officers. Residency in the town shall not be construed as a prohibited interest.

Sec. 4.11. Meetings.

The council shall meet regularly at least eight times per year and shall meet no less often than bimonthly at such times and locations within the boundaries of the town as the council may prescribe. Special meetings may be held on the call of the mayor or the town manager and with reasonable notice to each member and the public. Action taken at a special meeting shall be limited to the purpose for which the special meeting is called. A special meeting may be held outside the town with reasonable notice. All meetings shall be public and shall be scheduled to commence no earlier than 7 a.m. nor later than 10 p.m.

Sec. 4.12. Rules.

The council shall determine its own rules and order of business and shall provide for keeping minutes of its proceedings. The minutes shall be public records. The Town Council shall maintain a Policies and Procedures Manual that provides guidelines for how it will operate.

Sec. 4.13. Voting; quorum.

Roll call voting shall be required for ordinances or upon the specific request of a council member and shall be recorded in the minutes; otherwise, voting shall be by ayes and nays. Three members of the council shall constitute a quorum. No action of the council shall be valid or binding unless adopted by the affirmative vote of at least three members of the council, except in an emergency situation. All council members in attendance shall vote on all council actions, except when, with respect to any such member, there is, or appears to be, a possible conflict of interest as defined under general law.

ARTICLE V. NOMINATIONS AND ELECTIONS; TERMS OF OFFICE

Sec. 5.01. Elections.

The regular election of the members of the Town Council shall be held on the first Tuesday after the first Monday in November or as otherwise provided by general law. The time period that candidates must qualify shall be from noon of the 50th day prior to the election to noon of the 46th day, or as adjusted by a holiday or leap year.

Sec. 5.02. Commencement of Term.

The term of a member of the council shall begin at the first council meeting following the general election.

Sec. 5.03. Terms of office.

The terms for all council seats, #1, #2, #3, #4, and #5, shall be for 4 years, seats #1 and #2 shall initially be for a term from March 2019 to November 2023, and seats #3, #4, & #5 shall be for a term from March 2020 to November 2024. No member of the council shall serve for more than two consecutive full terms. After 1 year out of office, a candidate may re-qualify for any vacant seat.

Sec. 5.06. Nonpartisan elections.

All elections for officers of the town shall be conducted on a nonpartisan basis without any designation of political party affiliation.

Sec. 5.07. Multiple candidates.

In the event that more candidates qualify for election than there are open council seats, those candidates shall participate in the regular election and the candidate or candidates receiving the most votes cast shall be elected to the open council seat or seats.

Sec. 5.08. Recall.

The qualified electors of the municipality shall have the power to recall and to remove any elected official of the town as prescribed by general law.

Sec. 5.09. Town canvassing board.

The town canvassing board shall be composed of a Town Council Member, selected by Town Council, who is not a candidate for reelection, the Town Manager and the Town Clerk, who shall act as chairperson. At the close of polls of any town election, or as soon thereafter as practicable, the canvassing board shall meet at a time and place designated by the chairperson and shall proceed to publicly canvass the vote as shown by the returns then on file in the Office of the Supervisor of Elections. The Board shall prepare and sign a certificate containing the total number of votes cast for each person or other measure voted on. The certificate shall be placed on file with the Town Clerk.

ARTICLE VI. TOWN MANAGER

Sec. 6.01. Appointment and qualifications.

The council shall appoint a town manager. The town manager shall be appointed primarily on the basis of executive and administrative qualifications.

Sec. 6.02. Removal.

The council may remove the town manager for any reason by affirmative vote of at least 3 members of the council. If the vote is less than unanimous by all council members, the town manager may, within 7 days of the dismissal motion by council, submit to the mayor a written request for reconsideration. Any action taken by the council at the reconsideration hearing shall be final.

Sec. 6.03. Powers and duties.

The town manager shall be the chief administrative officer of the town and shall implement and administer all ordinances, resolutions, and policies adopted by the council and shall perform such other duties as may be required by the council or law. The town manager shall be responsible to the council and shall have the following powers and duties:

- (a) To hire or fill existing positions and, when the town manager deems it necessary for the good of the town service, suspend or remove town employees, except as otherwise provided by law or this charter.
- (b) To direct and supervise the administration of all employees, departments, and agencies of the town, except as otherwise provided by this charter or by law.
- (c) To attend all council meetings and shall have the right to take part in discussion but may not vote.
- (d) To ensure that all laws, provisions of this charter, and acts of the council, subject to enforcement by the town manager or by officers subject to the town manager's direction and supervision, are faithfully executed.
- (e) To submit to the council and make available to the public a complete report on the administrative activities of the town as of the end of each fiscal year.
- (f) To make such other reports as the council may require concerning the operation of town departments, offices, and agencies subject to the town manager's direction and supervision.
- (g) To keep the council fully advised as to the condition and future needs of the town and to make written recommendations to the council concerning the affairs of the town.
- (h) To perform the duties of town clerk in addition to the duties of town manager during any period of time so appointed by the council.

- (i) To perform such other duties as are specified in this charter or as may from time to time be assigned by the council.

ARTICLE VII. TOWN CLERK

Sec. 7.01. Duties and powers

There may be a town clerk who shall be appointed by the town manager with the consent of the council. The town clerk shall serve at the pleasure of the town manager and shall:

- (a) Give notice of council meetings to its members and the public.
- (b) Keep the journal and minutes of the proceedings of the council and its committees, which shall be public records.
- (c) Authenticate by signature and record in full in books kept for that purpose all ordinances and resolutions passed by the council.
- (d) Be the custodian of the town seal.
- (e) Have the power to administer oaths.
- (f) Perform such other duties as may be assigned by the town manager.

ARTICLE VIII. TOWN ATTORNEY

Sec. 8.01. Duties and removal procedure

There shall be a town attorney appointed by the council, who may represent the town in all legal proceedings and shall perform all other duties assigned by the council. The council may remove the town attorney for any reason by motion requiring three affirmative votes.

ARTICLE IX. ADMINISTRATIVE DEPARTMENTS

Sec. 9.01. Establishment of additional departments.

The council may establish such other departments as it determines necessary for the efficient administration and operation of the town; such departments, offices, or agencies shall be established by ordinance.

ARTICLE X. ORDINANCES AND RESOLUTIONS

Sec. 10.01. Definition of ordinances and resolutions.

As used in this charter, the following words and terms shall have the following meanings unless some other meaning is plainly indicated:

- (a) *Ordinance* means an official legislative action of the council, which action is a regulation of a general and permanent nature and enforceable as a local law.
- (b) *Resolution* means an expression of the council concerning matters of administration, an expression of a temporary character, or a provision for the disposition of a particular item of the administrative business of the town.

Sec. 10.02. Adoption of ordinances.

Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject and matters properly connected therewith, which shall be clearly expressed in its title. The enacting clause for an ordinance shall be: "IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS..."

- (a) An ordinance may be introduced by any member at any regular or special meeting of the council. A proposed ordinance may be read by title, or in full, on at least two separate council meeting days and shall, at least 10 days prior to adoption, be noticed once in a newspaper of general circulation in the town. The notice of proposed enactment shall state the date, time, and place of the meeting; the title of a proposed ordinance; and the place or places within the town where such proposed ordinance may be inspected by the public.
- (b) The council, as provided by general law, may adopt an emergency ordinance without complying with the requirements of notice expressed in the foregoing paragraph. An emergency ordinance shall become effective upon adoption and automatically stand repealed as of the 61st day following

the date on which it was adopted. This shall not prevent reenactment of such an ordinance under regular procedures.

- (c) Ordinances which rezone specific parcels of private real property or which substantially change permitted use categories shall be enacted pursuant to general law.
- (d) An ordinance shall, upon its final passage, be recorded in a book kept for that purpose and shall be signed by the mayor and the town clerk. A copy of the ordinance shall be available in the town hall.

Sec. 10.03. Adoption of resolutions.

Every proposed resolution shall be introduced in writing and in the form required for final adoption. No resolution shall contain more than one subject which shall be clearly expressed in its title. The clause which shall be used for all resolutions approved by the council shall be: "IT IS HEREBY RESOLVED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS..." A resolution may be introduced by any member at any regular or special meeting of the council. A resolution shall, upon its final passage, be recorded in a book kept for that purpose and shall be signed by the mayor and the town clerk. A copy of the resolution shall be available in the town hall.

ARTICLE XI. FINANCIAL PROCEDURES

Sec. 11.01. Fiscal year.

The fiscal year of the town shall begin on the first day of October and end on the last day of September.

Sec. 11.02. Submission of budget and budget message.

On or before the 15th day of July of each year, the town manager shall submit to the council a budget in accordance with state law. It shall outline the financial policies of the town for the ensuing fiscal year; describe the important features of the budget; indicate any major changes from the current year in financial policy, including any changes in budgetary accounting methods from the current year expenditures and revenues together with the reasons for such changes; summarize the town's debt position; and include such other material as the town manager deems necessary.

Sec. 11.03. Council action on the budget.

The council shall adopt the budget by resolution on or before the 30th day of September of each year.

Sec. 11.04. Public records.

Copies of the budget and the capital program as adopted shall be public records and shall be made available to the public at suitable locations in the town.

Sec. 11.05. Budget amendments.

(a) *Supplemental appropriations.* If, during the fiscal year, the town manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the council, by resolution, may make supplemental appropriations for the year up to the amount of such excess, so long as a fiscally responsible reserve is maintained.

(b) *Emergency appropriations.* To meet a public emergency affecting life, health, property, or the public peace, the council, by resolution, may make emergency appropriations. To the extent that there are no unappropriated revenues to meet such appropriations, the council may by such emergency resolution authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals in any fiscal year shall be paid not later than the last day of the fiscal year succeeding that in which the emergency appropriations were made.

(c) *Reduction of appropriations.* If, during the fiscal year, it appears probable to the town manager that the revenues available will be insufficient to meet the amount appropriated, the town manager shall report to the council without delay, indicating the estimated amount of the deficit, any remedial action taken, and recommendations as to any other steps to be taken. The council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose may, by resolution, reduce one or more appropriations.

(d) *Transfer of appropriations.* At any time during the fiscal year, the town manager may transfer any unencumbered appropriations among programs within a department, office, agency or a program provided by inter local agreement and, upon written request by the town manager, the council may by resolution transfer between funds any unencumbered appropriations from one department, office, agency or a program provided by inter local agreement to another.

ARTICLE XII. INITIATIVE AND REFERENDUM

Sec. 12.01. Initiative and referendum.

At least 25 percent of the qualified electorate of the town shall have the power to petition the council to propose an ordinance or to require reconsideration of an adopted ordinance, and if the council fails to adopt such ordinance so proposed, or to repeal such adopted ordinance, without any change in substance, then the council shall place the proposed ordinance, or the repeal of the adopted ordinance, on the ballot at the next municipal election.

ARTICLE XIII. CHARTER AMENDMENTS

Sec. 13.01. Initiation by ordinance.

The council may, by ordinance, propose amendments to any or all of this charter to be submitted to the electors, as provided by general law.

Sec. 13.02. Initiation by petition.

The electors of the town may propose amendments to this charter by petition to be submitted to the council to be placed before the electors, as provided by general law.

Sec. 13.03. Charter review.

The charter will be reviewed at least every 10 years. A five-member charter review commission shall be appointed and funded by the council. The charter review commission shall be appointed at least 6 months before the next scheduled election and complete its work and present any recommendations to the Council for change no later than 60 days before the election. The council shall hold a minimum of two public hearings to approve, reject or modify the proposed changes to the charter prior to placing the proposed changes on the scheduled election ballot.

ARTICLE XIV. SEVERABILITY

Sec. 14.01. Invalidity of character provision or application.

If any provision of this charter is held invalid, the other provisions of the charter shall not be affected thereby. If the application of this charter or any of its provisions to any person or circumstance is held invalid, the application of the charter and its provisions to other persons or circumstances shall not be affected thereby.

End of document.

**Town of Fort Myers Beach
Agenda Item Summary**

Yellow Sheet Number: **2025-275**

1. Request:

Meeting Date: March 13, 2025

DISCUSSION OF A DRAFT ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA SUGGESTED BY THE LAND PLANNING AGENCY TO AMEND SECTION 34-53 OF CHAPTER 34, ARTICLE II, DIVISION 1 OF THE LAND DEVELOPMENT CODE REGARDING ACCEPTANCE OF PAYMENT OF FEES AND CHARGES FOR REVIEW OF ANY APPLICATION OR ISSUANCE OF A PERMIT, INCLUDING INSPECTIONS, UNTIL ALL FEES AND CHARGES DUE THE TOWN INCLUDING BUT NOT LIMITED TO EXPENDITURES FOR NOTICING, ADVERTISING, ADDITIONAL PROFESSIONAL SERVICES, OUTSTANDING UTILITY BILLS OR CODE ENFORCEMENT FINES OR LIENS HAVE BEEN PAID AND THE PROPERTY IS IN COMPLIANCE WITH ALL APPLICABLE TOWN CODES AND ORDINANCES UNLESS REVIEW OF THE APPLICATION IS NEEDED FOR SAFETY PURPOSES OR FOR COMPLIANCE WITH TOWN CODES AND ORDINANCES; PROVIDING FOR SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS; CONFLICTS OF LAW; AND PROVIDING AN EFFECTIVE DATE.

Why the action is necessary:

It is necessary for the LPA to consider regulations related to and contained within the Land Development Code.

What the action accomplishes:

2. Agenda:

ITEMS FOR DISCUSSION

3. Requirement/Purpose:

5. Background:

At the January 2025 LPA meeting, the LPA directed staff to bring forward a draft ordinance to amend the Land Development Code (LDC) section regarding property owners who had unpaid outstanding funds due the Town, but were continuing to seek approval by the Town for various land use approvals. This item was presented for discussion purposes to the LPA to complete its direction. It is being presented to the Town Council with LPA comments for discussion and direction to staff to move forward with an ordinance for formal consideration by the LPA and then two readings before the Town Council.

The draft ordinance would add verification that any funds owed the Town would need to be paid before continuation with review of the application.

Attachments:

1. M & P March Application Fee and Payment Ordinance (3)

Financial Impact:

6. Alternative Action

Discussion

7. Staff Recommendations:

8. Recommended Approval:

nancy stuparich, Town Attorney

Date: March 07, 2025

Amy Baker, Town Clerk

Date: March 07, 2025

Andy Hyatt, Town Manager

Date: March 07, 2025

DRAFT FOR DISCUSSION ONLY

ORDINANCE NO. 25-xx

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING SECTION 34-53 OF CHAPTER 34, ARTICLE II, DIVISION 1 OF THE LAND DEVELOPMENT CODE REQUIRING PAYMENT OF ANY MONEY OWED TO THE TOWN FOR UTILITY SERVICE, OUTSTANDING DEVELOPMENT AND BUILDING PERMIT FEES, CODE ENFORCEMENT FINES AND LIENS, ON ANY PROPERTY OWNED BY THE APPLICANT; REQUIRING ALL PROPERTIES OWNED BY THE APPLICANT TO BE IN COMPLIANCE WITH THE TOWN'S CODE OF ORDINANCES AND LAND DEVELOPMENT CODE, EXCEPT WHEN THE APPLICATION IS RELATED TO ATTAINING COMPLIANCE; PROVIDING FOR SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS; CONFLICTS OF LAW; AND PROVIDING 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, the Town recognizes that redevelopment of the Town, following Hurricane Ian requires evaluation and updates to the Land Development Code; and

WHEREAS, the Town Council desires updates to the Fort Myers Beach Land Development Code to clarify, improve and create consistency among sections; and

WHEREAS, the proposed changes to the Land Development Code are not more restrictive or burdensome to development and instead facilitate review and create government efficiency; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on _____, 2025, at which the LPA gave full and complete consideration of the requests, recommendations by staff, the documents in the record, and the testimony of all interested persons, and the LPA voted _____, to recommend _____ of this Ordinance; and

WHEREAS, on _____, 2025, the Town Council held a first reading of the proposed Ordinance and gave full and complete consideration to the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons to adopt Ordinance 25-xx as provided herein and approved the scheduling of an adoption public hearing; and

WHEREAS, a Business Impact Estimate was prepared and posted on the City's website on the ____ day of _____, 2025, as required by Section 166.041(4), Florida Statutes; and

WHEREAS, an advertisement of the public hearing for adoption of the Ordinance was published in the News-Press on the ____ day of _____, 2025, which is no less than 10 days prior to the second reading of the proposed Ordinance as required by Section 166.041; and

WHEREAS, on the ____ day of _____, 2025, the Town Council held a second reading of the Ordinance; at which time the Town Council gave full and complete consideration to the recommendations of staff and the LPA, and the testimony of all interested persons; and

WHEREAS, the Town finds that it is in the best interests of the health, safety, and welfare of the Town's business owners, residents, and visitors to adopt the proposed changes.

NOW THEREFORE IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH, FLORIDA:

Section 1. The above recitals are true and correct, and incorporated herein by this reference and are hereby adopted as the legislative and administrative findings of the Town Council.

Section 2. Section 34-53 of Chapter 34, Article II, Division 1 of the Land Development Code is hereby amended to read as follows:

Sec. 34-53. - Fees and charges.

(a) The schedule of fees and charges for matters pertaining to this chapter shall be posted in the office where permit applications are filed. The charges listed may be changed by resolution of the town council. In the absence of a resolution by the town council, the director shall charge fees that are comparable to the fees charged by the board of county commissioners for similar applications.

(b) No review of any application or issuance of a permit including inspections shall be permitted until:

1) all fees and charges due the Town including but not limited to noticing, advertising, additional professional services, outstanding utility bills or code enforcement fines or liens relating to either the property subject to the permit and/or the owner of such property issued and no inspection, public notice, or other action relative to a zoning matter shall be instituted until after such fees and charges have been paid; and

2) the subject property is currently in compliance with the Town's Codes and Ordinances except when payment for the application is needed for safety purposes or to attain compliance with the Town's Codes and Ordinances.

3) Town staff shall notify the applicant within 14 if payment has been accepted. If payment is made by a cashier's check, the check must clear before processing of the application can continue.

Section 3. The Town Council intends that the provisions of this ordinance be made a part of the Fort Myers Beach Code of Ordinances, inclusive of the Land Development Code, 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 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, 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 King and seconded by Mayor Allers and upon being put to a roll call vote, the result was as follows:

Dan Allers, Mayor	_____
Jim Atterholt, Vice Mayor	_____
John R. King, Council Member	_____
Scott Safford, Council Member	_____
Karen Woodson, Council Member	_____

ADOPTED this ____ day of _____ 2025, by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE
AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:**

Vose Law Firm, Town Attorney

The foregoing Ordinance was filed in the Office of the Town Clerk on the ____ day of
_____, 2025.

**Town of Fort Myers Beach
Agenda Item Summary**

Yellow Sheet Number: **2025-274**

1. Request:

Meeting Date: March 13, 2025

DISCUSSION OF A DRAFT ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING LAND DEVELOPMENT CODE SECTION 34-236 RELATED TO NOTICES SUGGESTED BY THE LOCAL PLANNING AGENCY.

Why the action is necessary:

The LDC at present does not require posted signs on site or dictate a timeframe for mailed notices. The code language has also been edited to include development agreements.

What the action accomplishes:

This action would provide clear rules for noticing that will benefit the public and provide clarity to applicants.

2. Agenda:

ITEMS FOR DISCUSSION

3. Requirement/Purpose:

Ordinance

5. Background:

At the January 2025 LPA meeting, the LPA directed staff to bring forward a draft ordinance to amend the Land Development Code (LDC) section regarding noticing requirements. This item was presented for discussion purposes to the LPA to complete its direction. It is being presented to the Town Council with LPA comments for discussion and direction to staff to move forward with an ordinance for formal consideration by the LPA and then two readings before the Town Council.

The intent of the draft ordinance is to create a noticing timeframe, a posted notice requirement and to require applicants to do the work of providing noticing to the public. At present Town staff mails postcards to property owners within a 500ft radius and bills the applicant for that cost. The LDC does not provide a timeframe at present and there is no requirement for posting notice at the site. The draft ordinance sets the timeframe at 7 days ahead of public hearing, but direction can be provided to consider increasing the time period to 10 days prior to public hearings. Variances, Appeals and Special Exception applications are not included in this LDC section and consideration should be given as to extension to these other land use application approval requests.

Attachments:

1. M & P March Draft Public Notice Ordinance (1)

Financial Impact:

At present, Town staff sends out postcards and bills the applicant, requiring the applicant to send out the notices should be cost neutral. The cost of posted 18"x24" signs should be minimal to the applicant.

6. Alternative Action

Discussion

7. Staff Recommendations:

Approval

8. **Recommended Approval:**

Frankie Kropacek, Operations & Compliance Director

Date: March 03, 2025

nancy stuparich, Town Attorney

Date: March 07, 2025

Amy Baker, Town Clerk

Date: March 07, 2025

Andy Hyatt, Town Manager

Date: March 07, 2025

DRAFT – FOR DISCUSSION ONLY

ORDINANCE NO. 25-xx

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING LAND DEVELOPMENT CODE SECTION 34-236, NOTICES TO REQUIRE APPLICANTS FOR REZONINGS, DEVELOPMENT AGREEMENTS AND DEVELOPMENTS OF REGIONAL IMPACT TO PROVIDE MAILED AND POSTED PUBLIC NOTICING PRIOR TO LOCAL PLANNING AGENCY AND TOWN COUNCIL PUBLIC HEARINGS; PROVIDING FOR SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS; CONFLICTS OF LAW; AND PROVIDING 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, the Town recognizes that redevelopment of the Town, following Hurricane Ian requires evaluation and updates to the Land Development Code; and

WHEREAS, the Town Council desires updates to the Fort Myers Beach Land Development Code to clarify, improve and create consistency among sections; and

WHEREAS, the proposed changes to the Land Development Code are not more restrictive or burdensome to development; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on the ____ day of _____, at time which the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the record, and the testimony of all interested persons, and the LPA voted __ to __, to recommend approval of this Ordinance; and

WHEREAS, on _____, 2025, the Town Council held a first reading of the proposed Ordinance and gave full and complete consideration to the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons to adopt Ordinance 25-xx as provided herein and approved scheduling an adoption public hearing; and

WHEREAS, a Business Impact Estimate was prepared and posted on the Town's website on the ____ day of _____, 2025, as required by Section 166.041(4), Florida Statutes; and

WHEREAS, an advertisement of the public hearing for adoption of the Ordinance was published in the News-Press on the ____ day of _____, 2025, which is no less than 10 days prior to the second reading of the proposed Ordinance as required by Section 166.041; and

WHEREAS, on the ____ day of _____, 2025, the Town Council held a second reading of the Ordinance; at which time the Town Council gave full and complete consideration to the recommendations of staff and the LPA, and the testimony of all interested persons; and

WHEREAS, the Town finds that it is in the best interests of the health, safety, and welfare of the Town's business owners, residents, and visitors to adopt the proposed change.

NOW THEREFORE IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH, FLORIDA:

Section 1. The above recitals are true and correct, and incorporated herein by this reference and are hereby adopted as the legislative and administrative findings of the Town Council.

Section 2. LDC Sec. 34-236 is hereby amended to read as provided in Exhibit A.

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 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 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, 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 King and seconded by Mayor Allers and upon being put to a roll call vote, the result was as follows:

Dan Allers, Mayor	_____
Jim Atterholt, Vice Mayor	_____
John R. King, Council Member	_____
Scott Safford, Council Member	_____
Karen Woodson, Council Member	_____

ADOPTED this ____ day of _____ 2025, by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE
AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:**

Vose Law Firm, Town Attorney

The foregoing Ordinance was filed in the Office of the Town Clerk on the ____ day of _____, 2025.

Attached Exhibits

Exhibit A – Proposed Noticing Requirements

Exhibit A

Sec. 34-236. Notices.

(a) Minimum required information. A notice of public hearing under this chapter shall contain the following minimum required information:

(1) Action proposed.

a. Rezoning, development agreements and developments of regional impact. All required notices shall indicate the existing zoning of the property, the proposed zoning, and the general location of the property by reference to common street names and addresses, with sufficient clarity so as to advise the public, but need not describe the proposed plans or details thereof, or the specific legal description of the property.

b. Special exceptions and variances. All required notices shall indicate the existing zoning of the property; the proposed use by special exception, or the requirement from which the variance is being requested and the actual degree of variance being requested; and the location of the property by reference to common street names and addresses, with sufficient clarity so as to advise the public, but need not describe the proposed plans or details thereof or the specific legal description of the property.

c. Appeals. The notice shall summarize the decision or action upon which the appeal is based with sufficient clarity so as to advise the public of the subject matter.

(2) Time and place of hearing. The notice shall specify the date, time and place that the public hearing will be held by the local planning agency or the town council.

(3) Public availability of information. The notice shall indicate ~~where that copies of the proposed amendment application may be obtained or reviewed, or where the application for public hearing may be reviewed.~~ by contacting Town Hall staff

(4) Location of record of notice. A copy of such notice shall be kept available for public inspection during the regular business hours at Town Hall ~~and at the director's office.~~

(b) Method of providing notice. Notices of hearings before the local planning agency and the town council shall be provided by the applicant or their agent in accordance with applicable statutes and subsection (a) of this section. All noticed requests shall utilize layman's language, i.e., "apartment building" rather than "multi-family dwelling," "restaurant" rather than "business zoning."

(c) Mailed notices. The property owners list and map of surrounding property owners required by §§ 34-202(a)(6) and (a)(7) of this chapter is for the purpose of mailing notice to property owners within 500 feet of the property described. ~~The notice is a courtesy only and is not jurisdictional.~~ The applicant or their agent must provide proof of mailed notices 7 calendar days prior to the scheduled public hearing date. Proof must be provide via map of 500 ft radius, list of mailing addresses and photographs of mailed notices with paid postage stamp. Accordingly, the failure to mail or to timely mail such notice, or failure of any affected property owners to receive mailed notice, will not constitute a defect in notice or bar and deny the public hearing from being heard as scheduled.

(d) Posted notices. The applicant or their agent is responsible for posting a notice of a public hearing on site at least 7 calendar days prior to a scheduled meeting. A professionally lettered sign must be posted at each property boundary that fronts a public right-of-way. Photographic proof must be received by the Town Clerk 7 days in advance of the scheduled hearing with the LPA or Town Council. Failure to post the notice or staff receipt of proof of posted notice will constitute a defect in notice and require rescheduling of the hearing.

(1)The posted notice, 18 inches by 24 inches, must be placed in a prominent place on the property by the applicant/agent at their own expense denoting the following: application request, date and time of hearing, hearing body (i.e. LPA or Town Council), location of hearing and phone number of Town Hall directing interested parties to contact for information.

(e) The noticing required in this section shall not replace noticing requirements for specific actions noted elsewhere in the Land Development Code (LDC).

ORDINANCE 24-04

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING AND RESTATING ORDINANCE 23-05 TO PERMIT TEMPORARY USES IN CERTAIN ZONING DISTRICTS IN RESPONSE TO, AND AS A PART OF THE TOWN'S RECOVERY EFFORTS FOLLOWING A NATURAL DISASTER OR OTHER EMERGENCY SITUATION: 1) BY A GOVERNMENTAL ENTITY FOR THE BENEFIT OF THE PUBLIC; 2) FOR RESIDENTIAL MANUFACTURED HOMES, MOBILE HOMES, MOTOR HOMES, RECREATIONAL VEHICLES OR OTHER TEMPORARY DWELLINGS FOR RESIDENTIAL PURPOSES; AND 3) FOR MOVEABLE COMMERCIAL STRUCTURES FOR THE DELIVERY AND SALE OF NEEDED GOODS AND SERVICES TO THE PUBLIC; PROVIDING FOR CONFLICT OF LAW, SCRIVENER'S ERRORS, 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, the Town recognizes that recovery and redevelopment of the Town, following a natural disaster, such as Hurricane Ian creates a need for temporary uses in areas that were not damaged in order to provide goods and services to the public

WHEREAS, the Town adopted Ordinance 23-05 following Hurricane Ian and desires to revise the Ordinance in order to clarify its intent at the time of adoption, facilitate continued recovery and have more detailed regulations in place in the event of a future natural disaster or emergency; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on April 9, 2024, at time which the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the record, and the testimony of all interested persons, and the LPA voted 6 to 0, to recommend approval of this Ordinance; and

WHEREAS, on April 15, 2024, the Town Council held a first reading of the proposed Ordinance and gave full and complete consideration to the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons to amend and restate Ordinance 23-05 as provided herein; and

WHEREAS, a Business Impact Estimate was prepared and posted on the Town' website on the 18th day of April 2024, as required by Section 166.041(4), Florida Statutes; and

WHEREAS, an advertisement of the public hearing for adoption of the Ordinance was published in The News-Press on the 18th day of April 2024, which is 10 days prior to the second reading of the proposed Ordinance as required by Section 166.041; and

WHEREAS, on the 6th day of May 2024, the Town Council held a second reading of the Ordinance; at which time the Town Council gave full and complete consideration to the recommendations of staff and the LPA, and the testimony of all interested persons; and

WHEREAS, the Town finds that it is in the best interests of the health, safety, and welfare of the Town's business owners, residents, and visitors to allow for the temporary use of property in certain zoning districts for residential, commercial and governmental purposes.

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

Section 1. The above recitals are true and correct, and incorporated herein by this reference and are hereby adopted as the legislative and administrative findings of the Town Council.

Section 2. The Town Council determines that adoption of the following regulations is in the best interests of the health, safety, and welfare of the Town's business owners, residents, and visitors, which regulations shall be amended and restated as follows:

**~~Temporary Placement of Emergency Uses, Manufactured
Homes, Mobile Homes, Motor Homes, Recreational Vehicles
Other Temporary Residential Dwelling or Temporary
Moveable Commercial Units~~**

- ~~(1) — An emergency governmental use, manufactured home, mobile home, motor home, recreational vehicle, or other temporary unit, may be permitted on a limited basis by the issuance of a temporary placement permit (TPP) by the Town.~~
- ~~(2) — Unless otherwise provided in this Ordinance, an emergency governmental use, manufactured home, mobile home, motor home, recreational vehicle, or other temporary unit shall be removed from the site within thirty (30) days after issuance of a certificate of occupancy or certificate of use associated with the approved permit, or at the time of the expiration of the TPP, whichever is earlier. TPP shall not be used for the purpose of placing and operating a Short Term Rental.~~

^{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.

~~A. A TPP may be granted as indicated below:~~

- ~~(i) Within any Commercial or Institutional Zoning District, a TPP may be issued for the purpose of providing an emergency governmental use to provide an essential governmental service adversely impacted due to adverse weather or other acts of God.~~
- ~~(ii) Within any Commercial, Institutional or Residential Zoning District, a TPP may be issued for the purposes of placing a manufactured home, mobile home, motor home, recreational vehicle, or other temporary unit for displaced owner-occupants or tenants if their existing living unit(s) has/have become uninhabitable due to adverse weather damage or other acts of God. Habitability of the existing residential unit(s) shall be determined by an inspection by the City building official, Florida certified building inspector, architect, or engineer, and subject to the following requirements and restrictions:~~
 - ~~(a) No more than one (1) manufactured home, mobile home, motor home, recreational vehicle, or other temporary unit shall be allowed per living unit, for single family and two-family homes. Additional units may only be allowed with approval of a waiver by the Town Council.~~
 - ~~(b) The TPP shall only be allowed while the damaged living unit is uninhabitable and in the process of repair or a replacement living unit is in the process of being constructed.~~
 - ~~(c) Placement of a manufactured home, mobile home, motor home, recreational vehicle, or other temporary unit on a site must meet all State requirements for tie downs. Mobile homes shall be installed by a licensed mobile home contractor and~~

~~in accordance with requirements of Florida Statutes and the Florida Building Code.~~

~~(d) Only verified residents of Fort Myers Beach may be granted a TPP.~~

~~(iii) The TPP shall be issued in increments of six (6) months by review of the Town and shall not be issued for a period exceeding eighteen (18) months from the date of this ordinance adoption. The Town may, however, grant extensions to a TPP permit exceeding eighteen (18) months if a TPP permit holder demonstrates that a significant hardship exists. The Town Manager or designee shall decide if a hardship exists based upon evidence provided by the permit holder that they have exercised all due diligence in obtaining permits either for repair or replacement of the affected structure. The Town Manager may consider whether the applicant has had difficulties in completing insurance claims, obtaining an architect or engineer, obtaining construction materials, or obtaining a contractor, and if relevant, whether they have had difficulty in obtaining grants or loans to assist in repair or replacement of the affected structure.~~

~~(iv) The holder of the TPP shall apply for a building permit for the damaged or destroyed dwelling unit no later than six (6) months after the date of this ordinance adoption. The Town Manager or designee may, however, grant extensions to this deadline requirement based upon evidence provided by the property owner that they have exercised all due diligence in obtaining permits either for repair or replacement of the affected structure. The Town Manager may consider whether the applicant has had difficulties in completing insurance claims, obtaining an architect or engineer, obtaining construction materials, or obtaining a contractor, and if relevant, whether they have had difficulty in~~

~~obtaining grants or loans to assist in repair or replacement of the affected structure.~~

~~(v) Noncompliance may result in revocation of the TPP.~~

~~(vi) The occupants of the manufactured home, mobile home, motor home, recreational vehicle, or other temporary residential unit must comply with all mandatory hurricane evacuation requirements. Failure to do so may result in the revocation of the TPP.~~

~~3. Submission Requirements:~~

~~A. A completed TPP application; and~~

~~B. Map or other documentation indicating the proposed location of the manufactured home, mobile home, motor home, recreational vehicle, or other temporary residential unit; and~~

~~C. State Department of Health, State Department of Environmental Protection, and Town permit(s) authorizing the connection of the manufactured home, mobile home, motor home, recreational vehicle, or other temporary residential unit to an on-site or existing community wastewater treatment system.~~

~~4. An appeal of any decision made under this Ordinance may be made pursuant to the provisions found in Section 34-86 of the Town's Land Development Code.~~

Temporary Governmental, Residential (Manufactured Homes, Mobile Homes, Motor Homes, Recreational Vehicles Other Temporary Residential Dwelling) or Moveable Commercial Uses following Natural Disasters or Other Emergencies

(1) Governmental, residential (manufactured home, mobile home, motor home, recreational vehicle, or other temporary unit), or moveable commercial uses may be permitted on a limited basis upon adoption of a Resolution by the Town Council announcing the availability of

emergency temporary placement permits (ETPP's) following a natural disaster or other emergency and submission of an application.

- (2) Unless otherwise provided in this Ordinance or in a Resolution that is adopted hereafter by the town council, any governmental, residential (manufactured home, mobile home, motor home, recreational vehicle, or other temporary residential dwelling) or moveable commercial use shall be removed from the site 1) no later than thirty (30) days after issuance of a certificate of occupancy or certificate of use associated with an approved permit; 2) at the time of the expiration of the ETPP as provided herein or as provided in a resolution; or 3) at the time of expiration of any local or state declaration of emergency or law, whichever is earlier. The ETPP shall not be used for the purpose of short-term commercial or residential rental for new businesses or tenants, who did not otherwise have a business or residence in the town prior to the natural disaster or emergency.

A. An ETPP may be granted as indicated below:

- (vii) **Governmental Use.** Within any Commercial or Institutional Zoning District, an ETPP may be issued for the purpose of providing an emergency governmental use to provide an essential governmental services or aid to the public impacted due to a natural disaster, or emergency, or other acts of God.
- (viii) **Residential Use.** Within any Commercial, Institutional or Residential Zoning District, an ETPP may be issued for the purposes of placing a manufactured home, mobile home, motor home, recreational vehicle, or other temporary unit for displaced owner-occupants or tenants if their existing living unit(s) has/have become uninhabitable due to adverse weather damage or other acts of God. Habitability of the existing residential unit(s) shall be determined by an inspection by the City building official, Florida certified building inspector, architect, or engineer, and subject to the following requirements and restrictions:

- (e) No more than one (1) manufactured home, mobile home, motor home, recreational vehicle, or other temporary unit shall be allowed per living unit, for single family and two-family homes. Additional units may only be allowed with approval of a waiver by the Town Council.
- (f) The ETPP shall only be allowed while the damaged living unit is uninhabitable and in the process of repair or a replacement living unit is in the process of being constructed.
- (g) Placement of a manufactured home, mobile home, motor home, recreational vehicle, or other temporary unit on a site must meet all State requirements for tie-downs. Mobile homes shall be installed by a licensed mobile home contractor and in accordance with requirements of Florida Statutes and the Florida Building Code.
- (h) Only verified residents of Fort Myers Beach may be granted an ETPP.
- (ix) **Commercial Uses.** Within Commercial zoning districts, a ETPP may be issued to an owner or lessee of the property to operate a business that was existing on the property prior to the natural disaster or emergency or a similar new business. A new business or change in use dissimilar to the use that was in existence prior to the natural disaster or emergency, by an owner or lessee of the property, is not eligible for an ETPP.
 - 1. A permit applicant for a commercial use must have a Lee County Tax-ID.
 - 2. Vehicles and structures placed on commercial lots must be setback by no less

than the width of the vehicle/structure (i.e. track width) and may not protrude into the right-of-way.

3. Food Service Kitchens are permitted on their brick-and-mortar commercial site that is zoned for that type of activity.

4. Structures which are not on wheels must be tied-down on a stabilized surface or secured with appropriate helical piles, or other method to resist hydro-dynamic forces.

5. Vehicles must be on wheels and be able to quickly disconnect utility connections and be towed by a light utility vehicle.

6. No more than one commercial use may occur on the property unless more than one use existed on the property prior to the natural disaster or emergency.

- (x) **Review Period/Extension.** All approved ETPPs shall be issued in increments of six (6) months subject to review by the Town and shall not be issued for a period exceeding eighteen (18) months from the date of this ordinance adoption. The Town may, however, grant extensions to a ETPP permit exceeding eighteen (18) months if a ETPP permit holder demonstrates that a significant hardship exists. The Town Manager or designee shall decide if a hardship exists based upon evidence provided by the permit holder that they have exercised all due diligence in obtaining permits either for repair or replacement of the affected structure. The Town Manager may consider whether the applicant has had difficulties in completing insurance claims, obtaining an architect or engineer, obtaining construction materials, or obtaining a contractor, and if relevant, whether they have had difficulty in obtaining grants or loans to assist in repair or replacement of the affected structure, other

identified extenuating circumstances, or state of emergency extension or state law.

(xi)

Noncompliance. Noncompliance with regulations contained herein, or any other applicable federal law/regulations, state law or town code may result in revocation of the ETPP, including but not limited to noise, debris removal, fire safety, lighting, parking in the right-of-way etc. Any requested deviation of a requirement contained in the existing town code shall require approval by the town council occupants of any manufactured home, mobile home, motor home, recreational vehicle, or other temporary residential unit and owners and lessees of commercial properties must comply with all mandatory federal, state and local hurricane evacuation requirements. Failure to do so may result in the revocation of the ETPP or code enforcement action.

3. Submission Requirements:

- A. A completed ETPP application providing details of the specific desired temporary use and specifications; and
- B. Map or other documentation indicating the proposed location of the manufactured home, mobile home, motor home, recreational vehicle, or other temporary residential unit or commercial use; and
- C. State Department of Health, State Department of Environmental Protection, and Town permit(s) authorizing the connection of the manufactured home, mobile home, motor home, recreational vehicle, or other temporary residential unit or commercial structure to an on-site or existing community wastewater treatment system and power source. Commercial structures must obtain a Trade permit from the Building Department

4. An ETPP may include additional conditions of approval unique to the request. An appeal of any administrative

decision made under this Ordinance may be made pursuant to the provisions found in Section 34-86 of the Town's Land Development Code.

5. This ordinance shall apply to ETPPs issued subsequent to the date of its adoption.

Section 3. Whenever the requirements or provisions of this Ordinance conflict with the requirements or provisions of any other lawfully adopted Town Code provision, ordinance, or statute, this Ordinance shall apply.

Section 4. Any typographical errors that do not affect the intent of this Ordinance may be corrected with notice to and authorization of the Town Manager without further process.

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.

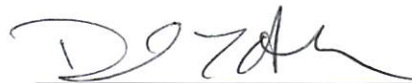
Section 6. This Ordinance shall become effective upon adoption by the Town Council.

The foregoing Ordinance was adopted by the Town Council upon a motion by Mayor Allers and seconded Council Member Woodson, and upon being put to a roll call vote, the result was as follows:

Dan Allers, Mayor	Aye
Jim Atterholt, Vice Mayor	Aye
John R. King, Council Member	Aye
Scott Safford, Council Member	Aye
Karen Woodson, Council Member	Aye

ADOPTED this 6th day of May 2024, by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

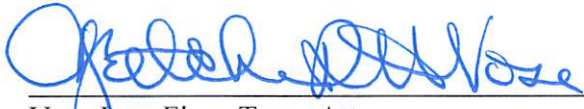


Dan Allers, Mayor

ATTEST:


Amy Baker, Town Clerk

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE
AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:**


Vose Law Firm, Town Attorney

This Ordinance was filed in the Office of the Town Clerk on this 3 day of June, 2024.

The 2024 Florida Statutes (including 2025 Special Session C)

[Title XII](#)

MUNICIPALITIES

[Chapter 166](#)

MUNICIPALITIES

[View Entire Chapter](#)

166.0335 Temporary shelter prohibition.—

- (1) For the purposes of this section, the term “temporary shelter” includes, but is not limited to, a recreational vehicle, trailer, or similar structure placed on a residential property.
- (2) Notwithstanding any other law, ordinance, or regulation to the contrary, following the declaration of a state of emergency issued by the Governor for a natural emergency as defined in s. 252.34(8) during which a permanent residential structure was damaged and rendered uninhabitable, a municipality may not prohibit the placement of one temporary shelter on the residential property for up to 36 months after the date of the declaration or until a certificate of occupancy is issued on the permanent residential structure on the property, whichever occurs first, if all of the following circumstances apply:

(a) The resident makes a good faith effort to rebuild or renovate the damaged permanent residential structure, including, but not limited to, applying for a building permit, submitting a plan or design to the municipality, or obtaining a construction loan.

(b) The temporary shelter is connected to water and electric utilities and does not present a threat to health and human safety.

(c) The resident lives in the temporary structure.
- History.—s. 2, ch. 2023-304.

AGENDA MANAGEMENT

Subject	Dept		Mtg Date
Substantial Damage Management Plan	Neighb. Services	added 11.15.24	3.18.25
Code Enforcement boat	Finance	added 2.20.25	3.18.25
Drainage Easement Carlos Ct.	Utilities	added 2.10.25	3.18.25
2nd reading: Ordinance 25-02 CPD Amendment (expansion)	P&Z	added 3.3.25	4.7.25
2nd reading: Ordinance 25-02 CPD Amendment (food truck park)	P&Z	added 3.3.25	4.7.25
State of Local Emergency extension resolutions	Clerk	added 3.3.25	4.7.25
Charter Review discussion	Clerk	added 5.8.24	4.9.25 M&P
Joint Session - Town Council and LPA (after LDC public meeting data compiled)	Council	added 8.7.24	TBD
Discussion regarding Ordinance 17-15, Medical Marijuana Dispensaries	Council	added 12.11.24	TBD
Discussion: Public/Private partnerships	Council	added 12.11.24	TBD
2nd Reading Ordinance 24-10; Comprehensive Plan Updates	P&Z	added 3.22.24	TBD
Ordinance: Expedited Special Exceptions	P&Z/Atty	added 2.18.25	To LPA April
Presentation: Lumen update of fiber internet installation	Council	added 2.18.25	TBD
Presentation: Update from FDOT on base of bridge project	Council	added 1.8.25	TBD
1st Reading Ordinance 24-xx: Lighting	Environmental	added 4.6.24	To LPA first
1st reading Ordinance 24-xx; Signage	Legal	added 6.17.24	To LPA first
1st reading Ordinance 24-xx; Silt Fencing	Planning	added 6.17.24	To LPA first