



Fort Myers Beach Special Magistrate Hearing

**Town Hall Council Chambers
6231 Estero Boulevard
Fort Myers Beach, FL 33931
Wednesday, October 1, 2025**

Agenda

9:00 AM

ORDER OF BUSINESS

I. CALL TO ORDER

II. APPROVAL OF MINUTES

A. September 2, 2025

III. COMPLIANCE CASES (STATUS UPDATE)

IV. VIOLATION CASES

A. FMB Case No.: 20250876

Property Owner: Estero Bay Improvement Assn

Property Address: 4400 - 4530 Bay Beach Ln

Status: Non-Compliant Structure

B. FMB Case No.: 20250655

Property Owner: Lemos Unlimited LLC

Property Address: 6875 Estero Blvd

Status: Non-Compliant Structure

C. FMB Case No.: 20241103

Property Owner: Leonardo Arms Beach Club I

Property Address: 7404 Estero Blvd

Status: Non-Compliant Structure

D. FMB Case No.: 20250781

Property Owner: Top Group Investments LLC

Property Address: 269 Driftwood Ln

Status: Non-Compliant Structure

E. FMB Case No.: 20241093

Property Owner: Royal Pelican Townhouse Condo Assn

Property Address: 4501-4509 Bay Beach

Violation: Non-Compliant Structure

F. FMB Case No.: 20250967

Property Owner: Moss Marine Freeland FL Holdings LLC

Property Address: 450 Harbor Ct

Violation: Non-Compliant Structure

G. FMB Case No.: 20250224

Property Owner: Bradford Joseph Benson Trust

Property Address: 1021 Estero Blvd

Violation: Non-Compliant Structure

V. CERTIFICATION OF LIEN(S) (NON-COMPLIANCE)

VI. COMPLIANCE CASES (STATUS UPDATE)

VII. LIEN FORECLOSURE CASES

VIII. BUILDING OFFICIAL APPEALS

IX. ADJOURNMENT

NOTE: THIS MEETING IS STREAMED LIVE ON [YOUTUBE](#).

IF A PERSON DECIDES TO APPEAL A DECISION MADE BY THE SPECIAL MAGISTRATE IN ANY MATTER CONSIDERED AT THIS 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.



Fort Myers Beach Special Magistrate Hearing

Bay Oaks Recreational Campus
2731 Oak Street
Fort Myers Beach, FL 33931
Tuesday, September 2,
2025

Minutes

9:00 AM

DRAFT

ORDER OF BUSINESS

I. CALL TO ORDER

Present: Town Clerk Amy Baker, Town Clerk Administrative Coordinator Lizzette Roman, Town Attorney Nancy Stuparich, Special Magistrate John Van Laningham and Emergency Services & Compliance Director Thomas Yozzo.

II. APPROVAL OF MINUTES

- A. Special Magistrate - August 5, 2025
Special Magistrate Van Laningham approved the minutes.

III. COMPLIANCE CASES

Special Magistrate Van Laningham swore in Officer Yozzo.

- A. FMB Case No. 20241095

FMB Case # 20241095

Property Owner: Tonino Dimillo Trust + Lynn Jackson Dimillo Trust

Property Address: 5790 Estero Blvd

Violation: Non-Compliant Structure

Recommendation: Dismissal due to compliance

Officer Yozzo testified that the property was in compliance. Special Magistrate Van Laningham dismissed the charges. The town did not seek an administrative fee.

- B. FMB Case No. 20250264

FMB Case # 20250264

Property Owner: Costantini Edmond D Jr & Costantini Patricia A

Property Address: 8387 Estero Blvd

Violation: Non-Compliant Structure (Storage Container)

Recommendation: Dismissal due to compliance

Officer Yozzo testified that the property was in compliance. Special Magistrate Van Laningham dismissed the charges. The town did not seek an administrative fee.

C. FMB Case No. 20241102**FMB Case # 20241102****Property Owner: MHC FISH LLC c/o KROLL****Property Address: 7295 Estero Blvd****Violation: Non-Compliant Structure (Storage Container)****Recommendation: Dismissal due to compliance**

Officer Yozzo testified that the property was in compliance. Special Magistrate Van Laningham dismissed the charges. The town did not seek an administrative fee.

IV. VIOLATION CASESA. FMB Case No. 20250286**FMB Case # 20250286****Property Owner: Brazdau Alin Adrian & Brazdau Mihaela Burnea****Property Address: 277 Ibis St****Violation: Non-Compliant Structure (Storage Container)**

Town Attorney Stuparich noted the property owner was not in attendance. Officer Yozzo reported that the property had come into compliance as of September 1, 2025. He submitted an affidavit of compliance to be entered into evidence. He asked that the case be dismissed with no administrative fee. Special Magistrate Van Laningham dismissed the case.

B. FMB Case No. 20241086**FMB Case # 20241086****Property Owner: First Baptist Church of Fort M****Property Address: 134/138 Connecticut St****Violation: Non-Compliant Structure**

Town Attorney Stuparich noted that the case was initially left off the agenda and the property owner and his attorney agreed to waive notice so it could be heard today.

Officer Yozzo reported that as of September 1, 2025, the non-compliant structures were still in place.

Town Attorney Stuparich indicated that one shipping container was removed, but another structure appeared to be in violation. The town has not received a certificate of elevation to determine compliance. The property owner indicated that it was in compliance.

Pastor Critser felt there was a miscommunication with Floodplain Manager Kelli because he submitted a current floodplain certificate for the property. Kelli indicated that she would get back to him to let him know how tall the trailers needed to be. He said they did not hear from her and were in limbo. He received a letter two days ago from the town stating that it did not look like the structure would be able to come into compliance. He said they were ready to elevate the structure as soon as he knew how tall it had to be. He clarified that the structure was three trailers sitting on blocks strapped to the ground. He added that he was not arguing with the town; he just wanted a

number.

Town Attorney Stuparich confirmed that the issue was elevation and had to come into compliance with FEMA regulations. Officer Yozzo confirmed there had not been a notice of violation issued.

Special Magistrate Van Laningham indicated that he could make a finding of violation with a compliance date and the church could work with the town to come into compliance before the compliance date.

Town Attorney Stuparich stated that the town had not received the recent email that the Pastor referred to. Pastor Critser responded that the email was from the town's attorneys and it said that if they did not come into compliance, they would probably recommend denial at the LPA meeting next week. He added that the LPA issue was totally separate. He felt some confusion stemmed from the church's several temporary RV permits. Town Attorney Stuparich said the letter Pastor Critser was referring to was on page 93 of the agenda materials. She read the letter and did not find it to be threatening.

Officer Yozzo stated that if the property owner raised the structure to the base flood level plus one with proper strapping, he would be compliant. He added that an engineer's report would have to be included. Pastor Critser agreed to do that.

Floodplain Manager Kelli Defedericis was sworn in. She stated that Pastor Critser had to hire a surveyor to mark the elevation for the trailers and the town could not do anything until that was done. The underside of the structure had to be base flood plus one. Pastor Critser responded that there were certificates for the whole property and they did not need a surveyor before. All he needed was a measuring stick to determine the required elevation of the finished floor. Floodplain Manager Defedericis agreed with the math, but said a surveyor was the only person qualified to sign the elevation certificate. She explained that 12 NAVD (North American Vertical Datum) is required to comply with the base flood.

Pastor Critser said that his contractor was qualified to sign the certificate; however, Floodplain Manager Defedericis countered that, per FEMA, a surveyor must sign the certificate and the form was on the website. Pastor Critser indicated he needed something in writing from the town because he spent \$12,000.00 to move the trailers and had the surveyor stamp them at 12 feet. He cannot afford anything else that comes up. He felt that 30 days to raise the structure was feasible, but surveyors were at least six weeks out.

He revealed that the trailers would be moved from their current location and he wanted assurance that this would have nothing to do with his development order. Town Attorney Stuparich asked that the two issues not be mixed.

Officer Yozzo requested 30 days for a status check and 60 days for final compliance.

Special Magistrate Van Laningham ordered a status check in 30 days and a final compliance in 60 days.

Town Attorney Stuparich noted the next hearing was 29 days from today. Special Magistrate Van Laningham commented that it should be close

enough. Floodplain Manager Defedericis revealed that there were three different flood zones on the property, so she could not advise what the finished floor was and it would have to be marked. Pastor Critser replied that he would submit the required information.

V. CERTIFICATION OF LIEN(S) (NON-COMPLIANCE)

A. FMB Case No. 20240994

FMB Case #: 20240994

Property Owner: Himmelstein Associates LLC

Property Address: 2815 Estero Blvd

Violation: Non-Compliant Structure (Storage Container)

Special Magistrate Van Laningham swore in Robert Himmelstein, property owner, and Jeff Walker, property manager.

Officer Yozzo stated that the property owner came into compliance on May 5, 2025, and an affidavit of compliance was submitted. There were 65 days between the Special Magistrate's order and the affidavit of compliance. The total was \$16,500.00 at \$250.00 per day and included the \$250.00 administration fee.

Town Attorney Stuparich noted the town requested certification of the lien for the 65 days the property was not in compliance. A copy of the Special Magistrate's order was on page 260 of the agenda materials.

Mr. Walker explained that they submitted a permit application on February 14, 2025, to elevate the containers, but after working with the town, found out that it was not feasible. They unloaded the materials from the containers and had to sell them. He asked for leniency, noting that they had incurred severe losses from the sale of the containers.

Mr. Himmelstein stated that he lost \$11,000.00 from the sale of the containers. He explained that they intended to raise them, but never received a permit.

Town Attorney Stuparich indicated that they could present their case in front of the town council and request a reduction of any lien the Special Magistrate might impose. Mr. Himmelstein requested that the fee be waived because it was not their fault that the town did not issue a permit.

Special Magistrate Van Laningham certified the lien and noted that they could present their case in front of the town council to seek a reduction.

VI. LIEN FORECLOSURE CASES

No cases.

VII. BUILDING OFFICIAL APPEALS

No appeals.

VIII. ADJOURNMENT

The hearing was adjourned at 10:07 a.m.

Property Address and Owner:

Hearing Date: October 1, 2025

Property Owner: Estero Bay Improvement Assn
Property Address: 4400 - 4530 Bay Beach Ln
Status: Non-Compliant Structure

Subject:

Code Section:

Reference Number:

Strap Number:

Officer:

Yozzo

Narrative:

Attachments:

1. 20250876_Hearing Exhibit A_Notice of Violation and Notice Hearing with Affidavit of Notice and Posting
2. 20250876_Hearing Exhibit B_FEMA and Related Ordinances
3. 20250876_Hearing Exhibit C_Violated Regulations

Town Recommendations:

Town Approvals:

Thomas Yozzo, Emergency Services Director

Date: September 19, 2025



Traci Kohler, Deputy Town Manager

Date: September 22, 2025

nancy stuparich, Town Attorney

Date: September 23, 2025

Lizzette Roman, Town Clerk Administrative Coordinator

Date: September 24, 2025

Amy Baker, Town Clerk

Date: September 24, 2025

HEARING

EXHIBIT

A

- Notice of Hearing and Affidavit of Posting



Town of Fort Myers Beach
NOTICE OF VIOLATION AND NOTICE OF CODE
ENFORCEMENT HEARING

6231 Estero Blvd, Fort Myers Beach, FL 33931

Phone : (239) 765-0202

Date: September 8, 2025

Case Number: **20250876**

Owner: **ESTERO BAY IMPROVEMENTS ASSN c/o RESORT MANAGEMENT**

Mailing Address: 9250 Corkscrew RD #9, Estero, FL 33928

Property Address: **4400-4530 Bay Beach LN**, Fort Myers Beach, FL 33931

Certified Mail# 9589071052703142134982, 9589071052703142134999,

Parcel: Standard First Class Mail

YOU ARE HEREBY NOTIFIED that the undersigned Code Officer alleges that on August 26, 2025 the following violation(s) of the Land Development Code of the Town of Fort Myers Beach, Florida, existed on the property above:

Code Violation: On 08/26/2025, a violation was discovered for the keeping and / or maintaining of non-compliant structure(s) on property, which are not built to current flood design codes in the Special Hazard Areas defined in Section 6-494 of the FMB Code of Ordinances. was identified as a violation of the Town's Codes:

ASCE 24-14 - A copy is available at https://www.fema.gov/sites/default/files/2020-07/asce24-14_highlights_jan2015.pdf

Sec. 6-501. - Design and construction of buildings, structures and facilities exempt from the Florida Building Code. - Pursuant to section 6-443, buildings, structures and facilities that are exempt from the Florida Building Code, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, must be designed and constructed in accordance with the flood load and flood-resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that are not walled and roofed buildings must comply with the requirements of division 10, subdivision VII.

Sec. 6-525. - General requirements for other development. - All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this article or the Florida Building Code, must:

(1) Be located and constructed to minimize flood damage;(2) Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;(3) Be constructed of flood damage-resistant materials; and(4) Have mechanical, plumbing and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

Corrective Action Required:

The following action is required to bring the violation(s) into compliance. (1) Remove structure(s) (2) Provide proof of Compliance with the requirements of Chapter 6, Article IV Division Section 6-501 and 5-525 of the Land Development Code. Contact Thomas Yozzo (Emergency Services Director) 239-765-0202

Compliance is required on or before: September 19, 2025

If the referenced violations are corrected from the date of issuance of this notice, you must contact the Code Enforcement Officer at (239) 765-0202.

A HEARING FOR THIS MATTER HAS BEEN SET BY THE SPECIAL MAGISTRATE CLERK FOR THE 1st DAY OF OCTOBER 2025, AT 9:00 AM, AT 6231 ESTERO BLVD, FORT MYERS BEACH, FL 33931. (Fort Myers Beach Town Hall Council Chambers)

☒ Should all violations not be corrected and approved by the undersigned Code Enforcement Officer within the date and time specified above, you will be required to appear at the prosecution of this matter before the Town's Special Magistrate for Code Compliance, pursuant to Division 2 of Article V of Chapter 2 of the Town Land Development Code and Chapter 162, Florida Statutes. **THIS HEARING, REQUIRING YOU TO BE PRESENT, WILL BE HELD IF THE VIOLATION(S) HAVE NOT BEEN BROUGHT INTO COMPLIANCE AND APPROVED BY THE CODE ENFORCEMENT DEPARTMENT BY Friday, September 19, 2025 AS EVIDENCED BY THE ISSUANCE OF AN AFFIDAVIT OF COMPLIANCE BY THE CODE ENFORCEMENT OFFICER.** If a violation is corrected and then recurs, or if a violation is not corrected by the time specified for correction by the code inspector, the case may be presented to the Special Magistrate even if the violation has been corrected prior to the board hearing.

☐ The Code Officer has reason to believe that the violation(s) or the condition causing the violation(s) presents a serious threat to the public health, safety, and welfare or is irreparable or irreversible in nature, and therefore, no compliance date has been provided. This case may be presented to the Special Magistrate even if the violation(s) have been corrected prior to the hearing.

☐ The Code Officer has reason to believe that repeat violations have been found, and therefore, no compliance date has been provided. This case may be presented to the Special Magistrate even if the repeat violation(s) have been corrected prior to the hearing.

The purpose of this Hearing is for the Special Magistrate to make "Findings of Fact" and "Conclusions of Law" relating to the violation(s) specified in the attached Violation detail and to issue an appropriate Order. The Hearing is also your opportunity to present evidence and/or contest

the alleged violations, should you wish to do so. If a violation is found, the Order may require you to correct the violation(s) by a specified date. In addition, the Order may impose daily fines as per Florida Statutes Section 162.09(2)(a) of the following:

- \$250/ day per violation
- \$500/day for repeat offenses
- \$5,000 for irreversible or irreparable violations

Additionally, administrative fines may be imposed to recover all costs incurred by the Town in prosecuting this matter. If all violations are not corrected prior to the Hearing date, you may be assessed any such costs. **THE IMPOSITION OF FINES AND/OR COSTS MAY RESULT IN A LIEN AGAINST YOU AND YOUR PROPERTY.**

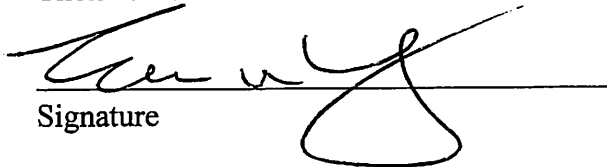
You should be aware that if the alleged violation(s) is/are corrected prior to the Hearing and recurs within five (5) years from the date of the original Notice of Violation, the case may be presented to the Special Magistrate as a Recurring Violation even if the violation is subsequently corrected.

You have the right to be represented by an attorney and to respond and present evidence and witnesses at the Hearing. If you wish to be represented by an attorney, your attorney **MUST** notify the Special Magistrate's Clerk in writing at least five (5) working days before the Hearing.

You may also have other rights which are set forth in Division 2 of Article V of Chapter 2 of the Town Land Development Code. If a person decides to appeal any decision with respect to any matter considered at this Hearing, such person will need to ensure that a verbatim record of the proceedings is made, which includes the testimony and evidence upon which the appeal is to be based (Section 286.0105, Florida Statutes).

For additional HEARING information, contact the Town of Fort Myers Beach Special Magistrate Clerk at (239) 765-0202 x 1351.

Thomas Yozzo

A handwritten signature in black ink, appearing to read 'Tom Yozzo', is written over a horizontal line. The signature is stylized with a large, looping 'Y'.

Signature
Code Enforcement Officer
Fort Myers Beach, Florida



TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

ESTERO BAY IMPROVEMENTS ASSN
c/o RESORT MANAGEMENT
4400-4530 Bay Beach Ln
Fort Myers Beach, FL 33931

Respondent,

FMB Case Number:	20250876
Certified Mail:	9589071052703142134999 9589071052703142134982
Regular Mail:	Standard 1st Class
Magistrate Case Number:	Not Assigned

Site Address: 4400-4530 Bay Beach Ln
Fort Myers Beach, FL 33931
Parcel Strap No. 03-47-24-W4-00014.10CE

AFFIDAVIT OF NOTICE AND POSTING

STATE OF FLORIDA

COUNTY OF LEE

BEFORE ME, the undersigned authority, personally appeared Thomas Yozzo, who is the Emergency Services Director for the Town of Fort Myers Beach, who was sworn and under oath, deposes and says the following regarding case #20250876 that certain Notice Of Violation and Special Magistrate Code Hearing. Presented as Hearing Exhibit B (" The Notice")

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | 2731 Oak Street, Fort Myers Beach, FL 33931



I personally mailed by certified mail & first-class service a copy of the Notice of Violation to the following:

- a. Estero Bay Improvements Assn c/o Resort Management
4400-4530 Bay Beach Ln
Fort Myers Beach, FL 33931
Certified Mail No. 9589071052703142134999
(Listed Leepa.org / Lee County Tax Collector Property Owner Address)
- b. Estero Bay Improvements Assn c/o Resort Management
9250 Corkscrew Rd #9
Estero, FL 33928
Certified Mail No. 9589071052703142134982
(Alternative Listed Mailing Address)
- c. N/A

Certified Mail No.
(Registered Agent for Company)

Copies of the certified mailing receipts are attached in Hearing Exhibit A.

1. I posted a copy of the Notice at 4400-4530 Bay Beach LN, Fort Myers Beach, FL 33931, which is the subject property. I took photographs of the Notice I posted on the 8th day of September 2025. A true, accurate and unaltered copy of the photographs are attached in Hearing Exhibit A.
2. I posted a copy of the Notice at the primary municipal government office for the Town of Fort Myers Beach, which is Town Hall and located at 6231 Estero Blvd, Fort Myers Beach, FL 33931. True, accurate and unaltered copies of photographs I took of the Notice posted on the 8th day of September 2025 are attached in Hearing Exhibit A.

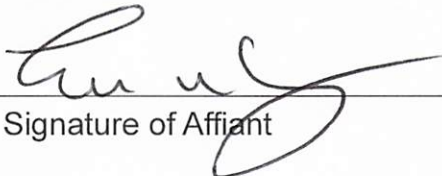
FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | 2731 Oak Street, Fort Myers Beach, FL 33931



3. In addition, I posted a copy of the Notice on the Town's publicly accessible website at <https://www.fortmyersbeachfl.gov/1294/Public-Notices> on the 8th day of September, 2025. A copy of the posted webpage is attached as Evidence in Hearing Exhibit A.

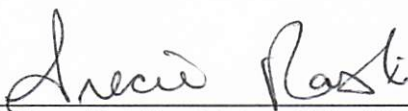
Under penalties of perjury, I declare that I have read the foregoing affidavit and that the facts stated in it are true and to the best of my knowledge and belief comply with Section 2-429 of the Town Land Development Code and Section 162.12, Florida Statutes.

x 
Signature of Affiant

**STATE OF FLORIDA
COUNTY OF LEE**

The foregoing instrument was sworn to, subscribed and acknowledged before me by means of either ☒ personal presence or ☐ online notarization this 8 day of September, 2025, by T Yozzo. They ☒ are personally known to me or ☐ has produced _____ as identification.




Notary Public, State of Florida
Print Name: Tracie Raski
My Commission Expires: 2/3/2029

9589 0710 5270 3142 1349 82

U.S. Postal ServiceTM
CERTIFIED MAIL[®] RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com.

OFFICIAL USE

20250876

Certified Mail Fee \$

Extra Services & Fees (check box, add fee as appropriate)

☐ Return Receipt (hardcopy) \$

☐ Return Receipt (electronic) \$

☐ Certified Mail Restricted Delivery \$

☐ Adult Signature Required \$

☐ Adult Signature Restricted Delivery \$

Postage \$

Sent by: _____

Total Postage and Fees \$

4400-4530 BAY BEACH LN

ESTERO BAY IMPROVEMENTS ASSN c/o
RESORT MANAGEMENT
9250 CORKSCREW RD #9, ESTERO, FL 33928

PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions

9589 0710 5270 3142 1349 99

U.S. Postal ServiceTM
CERTIFIED MAIL[®] RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com.

OFFICIAL USE

20250876

Certified Mail Fee \$

Extra Services & Fees (check box, add fee as appropriate)

☐ Return Receipt (hardcopy) \$

☐ Return Receipt (electronic) \$

☐ Certified Mail Restricted Delivery \$

☐ Adult Signature Required \$

☐ Adult Signature Restricted Delivery \$

Postage \$

Sent by: _____

Total Postage and Fees \$

4400-4530 BAY BEACH LN

ESTERO BAY IMPROVEMENTS ASSN c/o RESORT
MANAGEMENT
4400-4530 BAY BEACH LN,
FORT MYERS BEACH, FL 33931

PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions



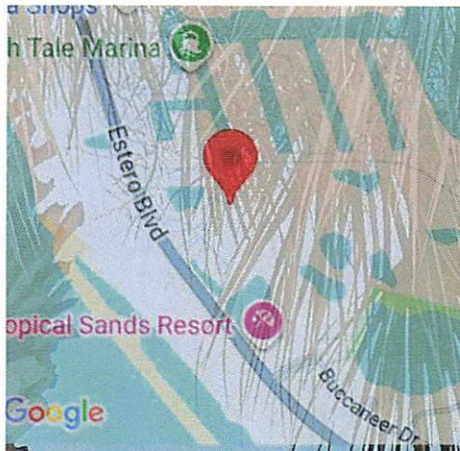
Aug 26, 2025 11:17:53 AM

Fort Myers Beach



Aug 26, 2025 11:16:35 AM

Fort Myers Beach

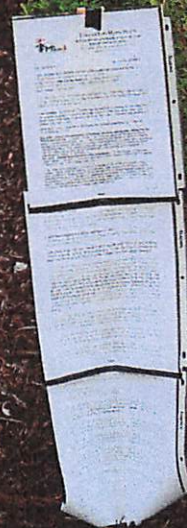


[illegible]

Sep 8, 2025 3:55:06 PM
Town of Fort Myers Beach

GRANDVIEW

AT BAY BEACH



Sep 8, 2025 3:47:50 PM
Town of Fort Myers Beach



Town of Fort Myers Beach

NOTICE OF VIOLATION AND NOTICE OF CODE ENFORCEMENT HEARING

6231 Estero Blvd, Fort Myers Beach, FL 33931

Phone : (239) 765-0202

Date: September 8, 2025

Case Number: 20250876

Owner: **ESTERO BAY IMPROVEMENTS ASSN c/o RESORT MANAGEMENT**

Mailing Address: 9250 Corkscrew RD #9, Estero, FL 33928

Property Address: **4400-4530 Bay Beach LN**, Fort Myers Beach, FL 33931

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Parcel: Standard First Class Mail

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Sec. 6-501. - Design and construction of buildings, structures and facilities exempt from the Florida Building Code. - Pursuant to section 6-443, buildings, structures and facilities that are exempt from the Florida Building Code, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, must be designed and constructed in accordance with the flood load and flood-resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that are not walled and roofed buildings must comply with the requirements of division 10, subdivision VII.

Sec. 6-525. - General requirements for other development. - All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this article or the Florida Building Code, must:

- (1) Be located and constructed to minimize flood damage;
- (2) Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
- (3) Be constructed of flood damage-resistant materials; and
- (4) Have mechanical, plumbing and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

Page 1 of 3

PUBLIC NOTICE RELATED TO A LITIGATION EXECUTIVE SESSION OF THE FORT MYERS BEACH TOWN COUNCIL

Notice is hereby given that, pursuant to Section 286.011(8), Florida Statutes, the Council of the Town of Fort Myers Beach, Florida, will commence a Litigation

Beach

FL 33931
1 765-0909



Property Data

STRAP: 03-47-24-W4-00014.10CE Folio ID: 10575014

Tax Roll Value Letter 2025

Generated on 9/8/2025 12:31 PM

Owner Of Record - Sole Owner

[\[Change Mailing Address\]](#)

ESTERO BAY IMPROVEMENTS ASSN
c/o RESORT MANAGEMENT
9250 CORKSCREW RD #9
ESTERO FL 33928

Site Address

Site Address maintained by [E911 Program Addressing](#)

4400-4530 BAY BEACH LN
FORT MYERS BEACH FL 33931

ALTERNATE ADDRESS INFORMATION:

4500 BAY BEACH LN, 4510 BAY BEACH LN, 4530 BAY BEACH LN

[\[Tax Map Viewer \]](#) [\[View Comparables \]](#)[\[Pictometry Aerial Viewer \]](#)

Property Description

Do not use for legal documents!



PARCEL LYING IN SECT 3 DESC AS BAY BEACH LANE + BAY BEACH GOLF
COURSE + FR INTER S LI OF N 300 FT OF GOV L 3 + ELY R/W OF ST RD S
865 FT TH E 2096.65

[View Recorded Plat at LeeClerk.org](#) - Use this link to do an Official Records search on the
Lee County Clerk of Courts website, using 1887 and 3431 for the book and page
numbers.

Attributes and Location Details

Total Bedrooms / Bathrooms	0
1st Year Building on Tax Roll	N/A
Historic Designation	No

Township	Range	Section	Block	Lot
47	24E	03		
Municipality	Latitude	Longitude		
Town of Fort Myers Beach	26.40972	-81.89335		

[View Parcel on Google Maps](#)

Image of Structure


[◀ Photo Date January of 2025 ▶](#) ☐ View other photo

Last Inspection Date: 01/22/2025

Property Values / Exemptions / TRIM Notices

Generated on 9/8/2025 12:31 PM

No existing exemptions found for this property.

TRIM Notices	Tax Year	Just	Land	Market Assessed	Capped Assessed	Exemptions	Classified Use	1
/ Additional Info	2025 (TRIM Value)	0	0	0	0	0	0	
/ Additional Info	2024 (Final Value)	0	0	0	0	0	0	
/ Additional Info	2023 (Final Value)	0	0	0	0	0	0	
/ Additional Info	2022 (Final Value)	0	0	0	0	0	0	
/ Additional Info	2021 (Final Value)	0	0	0	0	0	0	
/ Additional Info	2020 (Final Value)	0	0	0	0	0	0	
/ Additional Info	2019 (Final Value)	0	0	0	0	0	0	
/ Additional Info	2018 (Final Value)	0	0	0	0	0	0	
/ Additional Info	2017 (Final Value)	0	0	0	0	0	0	
	2016 (Final Value)	0	0	0	0	0	0	

The **Just** value is the total parcel assessment (less any considerations for the cost of sale). This is the closest value to *Fair Market Value* we produce an as of January 1st of the tax year in question (*F.A.C. 12D-1.002*).

The **Land** value is the portion of the total parcel assessment attributed to the land.

The **Market Assessed** value is the total parcel assessment (less any considerations for the cost of sale) based upon the assessment standard. Most parcels are assessed based either upon the *Highest and Best Use* standard or the *Present Use* standard (*F.S. 193.011*). For *Agriculturally Classified* parcels (or parcels with only agricultural uses are considered in the assessment (*F.S. 193.461 (6) (a)*). The difference between the *Highest and Best Use/Present Use* and the *Agricultural Exemption* is often referred to as the *Agricultural Exemption*. (i.e. Market Assessed = Just - Agricultural Exemption)

The **Capped Assessed** value is the *Market Assessment* after any *Save Our Homes* or *10% Assessment Limitation* cap is applied. This assessment cap is applied to all properties and limits year-to-year assessment increases to either the *Consumer Price Index* or 3%, whichever is lower for *Homestead* properties OR 1% for *Homestead* properties.

The **Exemptions** value is the total amount of all exemptions on the parcel.

The **Taxable** value is the *Capped Assessment* after exemptions (*Homestead, etc.*) are applied to it. This is the value that most taxing authorities use to calculate a parcel's taxes. (i.e. Taxable = Capped Assessed - Exemptions)

Property Details (Current as of 9/7/2025) ?

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Property Details (2025 TRIM)

Generated on 9/8/2025 12:31 PM

Land

Land Tracts

Use Code	Use Code Description	Number of Units	Unit of Measure
9740	Recreational Areas	56.75	Acres
9400	Right of Way	5.01	Acres

Land Features

Description	Year Added	U
FENCE - ALUM/VINYL - 6 FEET	2019	
TENNIS COURT - BLACK TOP	2024	
FENCE - CHAIN LINK - 10 FOOT	2024	
FENCE - CHAIN LINK - 8 FOOT	2024	

TIKI HUTS - TRUSS/RAFTER SYSTEM	2024
TIKI HUTS - TRUSS/RAFTER SYSTEM	2024
TIKI HUTS - TRUSS/RAFTER SYSTEM	2024
GOLF MINI - GOOD QUALITY CUSTOM COURSE	2024

Taxing Authorities

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TOWN OF FT MYERS BEACH / 032

Name / Code	Category	Mailing Address
LEE CO GENERAL REVENUE / 044	County	LEE COUNTY OFFICE OF MGMT & BUDGET PO BOX 398 FORT MYERS FL 33902-0398
FORT MYERS BEACH FIRE CONTROL DIST / 032	Independent District	FORT MYERS BEACH FIRE CONTROL DIST 100 VOORHIS ST FORT MYERS BEACH FL 33931
FORT MYERS BEACH MOSQUITO CONTROL / 035	Independent District	FORT MYERS BEACH MOSQUITO CONTROL PO BOX 2837 FORT MYERS BEACH FL 33932-2837
FORT MYERS BEACH PUBLIC LIBRARY DIST / 033	Independent District	FORT MYERS BEACH PUBLIC LIBRARY DIST 2755 ESTERO BLVD FORT MYERS BEACH FL 33931
LEE CO HYACINTH CONTROL DIST / 051	Independent District	LEE CO HYACINTH CONTROL DIST 15191 HOMESTEAD RD LEHIGH ACRES FL 33971
WEST COAST INLAND NAVIGATION DIST / 098	Independent District	WEST COAST INLAND NAVIGATION DIST 200 MIAMI AVE E VENICE FL 34285-2408
TOWN OF FORT MYERS BEACH FLORIDA / 118	Municipal	TOWN OF FORT MYERS BEACH 2523 ESTERO BLVD FORT MYERS BEACH FL 33931
PUBLIC SCHOOL - BY LOCAL BOARD / 012	Public Schools	LEE COUNTY SCHOOL BOARD BUDGET DEPARTMENT 2855 COLONIAL BLVD FORT MYERS FL 33966
PUBLIC SCHOOL - BY STATE LAW / 013	Public Schools	LEE COUNTY SCHOOL BOARD BUDGET DEPARTMENT 2855 COLONIAL BLVD FORT MYERS FL 33966
GREEN CORRIDOR PACE / 363	Special District	
SFWMD-DISTRICT-WIDE / 110	Water District	SFWMD 3301 GUN CLUB RD WEST PALM BEACH FL 33406
SFWMD-EVERGLADES CONSTRUCTION PROJECT / 084	Water District	SFWMD 3301 GUN CLUB RD WEST PALM BEACH FL 33406
SFWMD-OKEECHOBEE BASIN / 308	Water District	SFWMD 3301 GUN CLUB RD WEST PALM BEACH FL 33406

Sales / Transactions ⓘ

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Sale Price	Date	Clerk File Number	Type	Notes	↕ In
0.00	05/07/2016	20161011649CM	Not a Sale	Parcel has been split or combined at the request of the property	

owner.

[Click Here for staff assistance.](#)[View Recorded Plat at LeeClerk.org](#)

Use the above link to do a search on the Lee County Clerk of Courts website, using **1887** and **3431** for the book and page numbers and **Official Record** book type.

Help safeguard your home against property fraud. Sign up for the Lee Clerk's free [Property Fraud Alert](#).

Building / Construction Permit Data

Generated on 9/8/2025 12:31 PM

Permit Number	Permit Type	Date
241978	Roof / Sheds	11/07/2024
236001	Roof / Sheds	11/07/2023
236023	Fence	11/07/2023
231381	Plumbing	05/17/2023
231839	Electric	03/01/2023
231208	Electric	02/03/2023
230573	Mobile Home	01/19/2023
223794	Electric	12/07/2022
SGN18-0011	Building Miscellaneous	05/25/2018
FNC18-0014	Fence	02/26/2018
DEM17-0023	Demolition	12/04/2017
SGN17-0008	Building Miscellaneous	04/12/2017
SGN17-0009	Building Miscellaneous	04/12/2017
ROF17-0024	Roof	03/30/2017
SGN17-0007	Building Miscellaneous	03/27/2017
ELE17-0027	Electric	02/03/2017
COM16-0330	Building Miscellaneous	02/01/2017
COM17-0005	Building Miscellaneous	02/01/2017
ELE17-0025	Electric	02/01/2017
PLB17-0023	Plumbing	02/01/2017
DEM16-0006	Demolition	05/05/2016
ELE12-0269	Electric	10/15/2012
MEC10-0052	AC New / Change out	04/09/2010
ROF2007-02431	Roof	09/25/2007
FNC2005-00585	Fence	04/06/2005
RES2004-06237	Roof	01/19/2005

9/8/25, 12:31 PM	Online Parcel Inquiry Lee County Property Appraiser	
COM2003-02092	Building Addition	03/01/2004
708963	Demolition	07/14/1987
104669	Commercial	11/18/1983
IMPORTANT: THIS MAY NOT BE A COMPREHENSIVE OR TIMELY LISTING OF PERMITS ISSUED FOR THIS PROPERTY.		
Note: The Lee County Property Appraiser's Office does not issue or maintain any permit information. The Building / Construction permit data displayed represents only those records this Office may find necessary to conduct Property Appraiser business. Use of this information is with the understanding in no way is this to be considered a comprehensive listing of permits for this or any other parcel.		
The Date field represents the date the property appraiser received information regarding permit activity; it may or not represent the actual date of permit issuance or completion.		
Full, accurate, active and valid permit information for parcels can only be obtained from the appropriate permit issuing agency .		

Parcel Numbering History ⓘ

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Solid Waste (Garbage) Roll Data

Generated on 9/8/2025 12:31 PM

Flood and Storm Information

Generated on 9/8/2025 12:31 PM

Community		Flood Insurance	Find my flood zone		Evacuation Zone	
Community	Panel	Version	Date		Evacuation Zone	
071C	0567	G	11/17/2022		A	



Lee County Tax Collector

Noelle Branning

2024 Real Estate Tax Notice

Ad Valorem Taxes and Non-Ad Valorem Assessments for Lee County, Florida

Account Number:
03-47-24-W4-00014.10CE
Alternate Key:
2100155437
Millage Code:
032

Site Address/Legal Description:
4400-4530 BAY BEACH LN
PARCEL LYING IN SECT 3 DESC AS BAY BEACH
LANE + BAY BEACH GOLF COURSE + FR INTER S
LI OF N 300 FT OF GOV L 3 + ELY
See Additional Legal on Tax Roll



SCAN
THIS CODE
to pay online
or visit
LeeTC.com/pay-online

Exemptions/Values
Market Value
Assessed Value
Taxable Value

0
0
0

★ See message below.

ESTERO BAY IMPROVEMENTS ASSN c/o RESORT MANAGEMENT
9250 CORKSCREW RD #9
ESTERO, FL 33928

Ad Valorem Taxes Levying Authority

LEE COUNTY GENERAL REVENUE
PUBLIC SCHOOL - BY LOCAL BOARD
PUBLIC SCHOOL - BY STATE LAW
TOWN OF FORT MYERS BEACH
SFL WATER MGMT-DISTRICT LEVY
SFL WATER MGMT-EVERGLADE CONST
SFL WATER MGMT-OKEECHOBEE LEVY
FORT MYERS BEACH FIRE CONTROL DISTRICT
FORT MYERS BEACH MOSQUITO
FORT MYERS BEACH LIBRARY
LEE COUNTY HYACINTH CONTROL
WEST COAST INLAND NAVIGATION DISTRICT

Telephone

239-533-2221
239-337-8215
239-337-8215
239-765-0202
561-686-8800
561-686-8800
561-686-8800
239-590-4200
239-247-1205
239-463-9691
239-694-2174
941-485-9402

Mill Rate

3.7623
2.2480
3.0380
0.9900
0.0948
0.0327
0.1026
2.8000
0.1123
0.1612
0.0200
0.0394

Assessed

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Exemption

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Taxable

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Amount

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0.00
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0.00
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0.00

Non-Ad Valorem Assessments Levying Authority

Telephone

Rate

Basis

Amount

2024 Combined Total Ad Valorem and Non-Ad Valorem:

\$0.00

2024 Real Estate Tax Notice

PAY ONLY ONE AMOUNT

If Received By:

- ☐ Sep 30, 2025
- ☐
- ☐
- ☐
- ☐

Amount Due:

\$0.00

Phone/Email Contact: _____

For payment options and instructions, refer to the back of this notice.

Account: 03-47-24-W4-00014.10CE

Site Address: 4400-4530 BAY BEACH LN

Alternate Key: 2100155437

★ If the address below is not correct, visit LeePA.org to update your address.

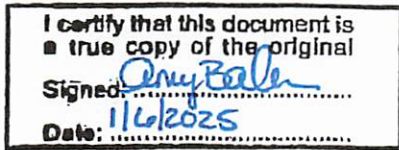
ESTERO BAY IMPROVEMENTS ASSN c/o RESORT MANAGEMENT
9250 CORKSCREW RD #9
ESTERO, FL 33928

Make check payable to:
LEE COUNTY TAX COLLECTOR
PO BOX 1609
FORT MYERS, FL 33902-1609



Hearing Exhibit B

FEMA and Related Ordinances



U. S. Department of Homeland Security
Region 4
3005 Chamblee Tucker Road
Atlanta, GA 30341



FEMA

July 19, 2024

CERTIFIED MAIL RETURN RECEIPT REQUESTED

Andy Hyatt
Town Manager, Fort Myers Beach
2525 Estero Blvd
Fort Myers Beach, FL 33931

Re: National Flood Insurance Program Participation

Dear Mr. Hyatt:

I'd like to thank you and your staff for the long hours and hard work during the last two months to help correct the Town of Fort Myers Beach's compliance issues regarding the National Flood Insurance Program (NFIP). Our teams have made great progress in helping ensure Fort Myers Beach and their residents are more resilient and prepared for future storms.

Our team has completed its review of the town's compliance with the minimum floodplain management standards and everything that has been done to correct any deficiencies and violations.

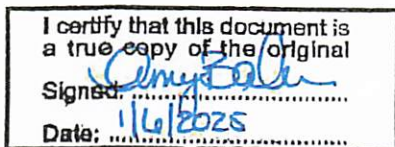
We acknowledge the work invested by your community has resulted in some improvements to meet minimum floodplain management standards. However, as the Town of Fort Myers Beach continues to recover from Hurricane Ian, FEMA finds that outstanding compliance issues remain. FEMA will not retrograde the town's class rating at this time.

Although FEMA will not retrograde the Town of Fort Myers Beach's class rating at this time, if the violations are not corrected or remedied by Nov. 18, FEMA's regulations (Title 44 Code of Federal Regulations 59.24(b) Suspension of Community Eligibility) require us to place the town on probation. This letter starts the official notification process. In addition, the town would no longer be eligible for Community Rating System participation and would be retrograded to Class 10 effective on April 1, 2025.

This letter and its attachments include FEMA's findings and our proposed next steps for the Town of Fort Myers Beach to remedy outstanding deficiencies and violations. These deficiencies and violations are described in the attached documents, specifically refer to the Status Report. To avoid probation in 121 days, the Town of Fort Myers Beach must correct deficiencies and remedy all identified violations to the maximum extent possible by Nov. 18.

You have my commitment of support as you work through these issues with your team.

www.fema.gov



A careful review of the data you provided since April shows that the implementation of the floodplain management program has several deficiencies that remain out of compliance. During the 60-day review period, the Town of Fort Myers Beach submitted additional permitting information for 105 structures in the floodplain.

Here is a summary of some of the items that the Town of Fort Myers Beach needs to remedy:

- Lack of permits for development in the Special Flood Hazard Area.
- Lack of maintaining permit records for development, new construction, or substantial improvements.
- Failure to make substantial improvement (SI) and substantial damage (SD) ("SI/SD") determinations.

FEMA staff reviewed each of the submitted permit packages and learned:

- 31% of the permit packages were complete.
- 20% need additional information.
- 2% needed a Community Assistance Visit follow up.
- 15% were ongoing in a Code Enforcement Case.
- 32% will be followed up on during a Future Compliance Engagement.

FEMA also found:

- 51 out of the 105 permit packages submitted did not include permits for structures that sustained documented damage.
- 76 of the 105 were missing itemized/detailed cost information for repair performed.
- 62 of the 105 had individual permits issued without total repair costs.

To avoid probation, the Town of Fort Myers Beach must complete the following items by close of business on Nov. 18. We encourage regular communication to share updates on your progress.

The town must remedy the following identified deficiencies:

1. Within 60 days of the date of this correspondence, September 16, 2024, develop and submit a plan that includes timelines and actions to address all identified program deficiencies and violations to the maximum extent possible.
2. Assess all floodplain development from Hurricane Ian in the Special Flood Hazard Area, ensuring that permits for all repairs, construction and development were obtained consistent with local floodplain management regulations:
 - a. From FEMA's April 8, 2024 letter:
 - i. Provide a status update for structures deemed Substantially Damaged on the list provided by the Town of Fort Myers Beach in accordance with the April 11, 2024, letter sent to the FEMA Region 4 Administrator.
 - ii. Provide evidence to support compliance action taken for the structures identified as having damage and FEMA identified as Future Compliance Engagement, Community Assistance Visit follow up, and additional information needed.

I certify that this document is
a true copy of the original

Signed: 

Date: 11/6/2025

- b. In addition to the above, provide an assessment of all floodplain development impacts from Hurricane Ian to structures in the Special Flood Hazard Area and provide a plan for remedying any identified violations.
3. Provide documentation that demonstrates your community is leveraging its code enforcement process to address new and existing code cases for all structures not confirmed as compliant. When a violation is confirmed, remedy to maximum extent possible. This includes:
 - a. In Item 2 above, structures identified during the evaluation as a Code Enforcement Case
 - b. Structures identified when assessing the Special Flood Hazard Area for all Hurricane Ian impacts to structures.
4. Put a process in place to ensure substantial damage compliance for future events.

You have my commitment to continue to support you and your team as you take the necessary compliance measures to avoid probation and possible suspension from the National Flood Insurance Program.

If you have any questions or at any time need technical assistance to address these issues, please contact FEMA Region 4 Office, Jacky Bell, Mitigation Division Director, at jacky.bell@fema.dhs.gov or 404-273-4710.

Sincerely,

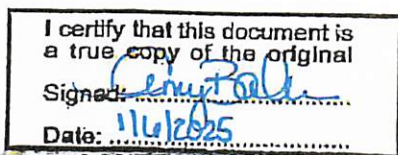


Robert D. Samaan
Regional Administrator

Attachments:

- Community Status Report
- Criteria for Avoiding Probation

cc: Kristin Schumacher, Floodplain Administrator
Jason Hunter, Region Floodplain Management & Insurance Branch Chief
Jillian Kraynak, Florida NFIP State Coordinator
Office of Sen. Marco Rubio
Office of Sen. Rick Scott
Office of Rep. Byron Donalds
Office of Rep. Greg Steube



FEMA

Town of Fort Myers Beach Post-Disaster Compliance Status Update Report

FEMA remains committed to helping communities take appropriate remediation actions to remain in good standing with the National Flood Insurance Program (NFIP) and participate in the Community Rating System (CRS).

The Town of Fort Myers Beach was granted 60 days (June 10, 2024), to submit to FEMA any new information related to the deficiencies and substantive violations detailed in FEMA's April 8, 2024 Findings Report. The April 8, 2024 Findings Report supported an initial decision by FEMA to retrograde the Town of Fort Myers Beach to a CRS class 10 community. In the Findings Report, FEMA also found program deficiencies and violations within the Town of Fort Myers Beach, which will serve as a basis for the current enforcement action and needed remediation.

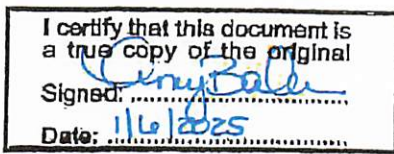
During the 60-day review period, the Town of Fort Myers Beach provided FEMA permit documentation for 105 sites. FEMA reviewed the submitted documentation, for the 105 sites as well as the Town of Fort Myers Beach's Narrative and supporting documentation.

After careful review of Town of Fort Myers Beach's submittal, FEMA finds that program deficiencies and substantive violations remain. Unfortunately, due to the deficiencies, the Town of Fort Myers Beach is being notified that they have until November 18, 2024 to address these deficiencies, or the Town will be placed on probation from the NFIP:

LIST OF PROGRAM DEFICIENCIES

Program Deficiencies are a defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of floodplain management regulations of the standards in 44 CFR 60.3; 60.4; 60.6; and NFIP Community Compliance Program Guidance, P-1022 (July 2016) in section 3.2.

- Failure of the community's "commitment to recognize and duly evaluate flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards in all official actions in the areas having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards and to take such other official action reasonably necessary to carry out the objectives of the program;" 44 CFR 59.22(8) and LDC CH 6, Art IV, Div 1, Sec 6-403(8).
- Failure to require permits for all proposed construction and development in the SFHA. 44 CFR 60.3(b)(1); 44 CFR 60.3(c)(1); 44 CFR 60.3(e)(1); FBC R101.2.1; FBC EB701.3; FBC 105.1; LDC CH 6, Art IV, Div 3, Sec 6-427; and LDC CH 6, Art IV, Div 6, Sec 6-461.
- Failure to maintain permit records for development, new construction, or substantial improvements in the SFHA. 44 CFR 59.22(a)(9)(iii); 44 CFR 60.3(b)(5)(iii); and 44 CFR 60.3(e)(2)(ii).
- Failure to make substantial improvement (SI) and substantial damage (SD) ("SI/SD") determinations and calculations for all proposed construction and development in the SFHA. 44 CFR 60.3(b)(1); 44 CFR 60.3(c)(1); 44 CFR 60.3(e)(1); LDC CH 6, Art IV, Div 3, Sec 6.428(1); and FEMA Substantial Improvement / Substantial Damage Desk Reference, P-758 (May 2010) ("SI/SD Desk Reference") in section 5.2.



- ✓ Failure to maintain SI/SD determination records for all proposed construction and development in the SFHA. 44 CFR 59.22(a)(9)(iii); 44 CFR 60.3(b)(5)(iii); 44 CFR 60.3(e)(2)(ii); and SI/SD Desk Reference in sections 4.2 and 7.7.
- ✓ Failure to keep records of permits, certifications, and variance actions. 44 CFR 59.22(a)(9)(iii).
- ✓ Failure to establish SI/SD procedures for administering and documenting determinations of SI/SD. LDC CH6, Art IV, Div 3, Sec 6.428(1) and FEMA Substantial Improvement / Substantial Damage Desk Reference, P-758 (May 2010) ("SI/SD Desk Reference") in sections 4.1, 4.3, & 7.1.
- ✓ Failure in permitting system, which allowed the use of "temporary" non-compliant structures (including shipping container and trailers/food trucks). LDC CH 6, Art IV, Div, 4, Sec 6.443 (3)&(4), LDC CH 6, Art IV, Div 6, and LDC CH 6, Art IV, Div 6, Sec 6-462, Sec 6.463, and LDC CH 6, Art IV Div 10, Sec 6-501.

1. Program deficiencies

Serious program deficiencies in a community's administrative and enforcement process and procedures are those that have resulted or could result in substantive violations that increase potential flood damages or stages in the community. The following deficiencies represent gaps in the Town's administrative process that restrict the ability to meet the minimum standards for participation.

Permitting of non-compliant structures/shipping containers/

Inconsistent Market Value	Missing Repair Permits (Known Damage (IA/Insurance))	Missing Detailed Cost Info	Low & Inadequate Labor Costs	Permits Issued Without Total Repair Costs	Failed To Capture Complete Scope of Work	After the Fact Permits	After the Fact Notice of Violation
1	51	76	8	62	65	16	25

2. List of properties determined to be substantially damaged:

The Town of Fort Myers Beach has submitted to FEMA a list of properties that Town of Fort Myers Beach deemed substantially damaged since the disaster; there were 356 structures listed. What actions has the Town taken or plan to take to follow-up on those structures? Please provide FEMA with a status of each structure to indicate how substantial damage is being addressed.

3. Non-compliant development

- a. Non-compliant structures (containers) and temporary structures have been placed in the Coastal High Hazard Area (VE zone and coastal A zone). Please provide a plan to remove the structures or bring the non-compliant structures or non-compliant additions into compliance; and confirmation that the town has stopped issuing permits for this type of non-compliant development.

b.

I certify that this document is
a true copy of the original
Signed: Cheryl Baker
Date: 11/6/2023



4. Data Dictionary (revised) – “Status” Column Meanings:

Additional Information Needed – Permit package needs additional information to be considered complete.

CAV Follow-Up – Not a Hurricane Ian issue but found a need for additional information during the next compliance follow-up with the community.

Code Enforcement Case – Community is currently processing as a code enforcement case and FEMA will accept and review case updates, follow-up permit information, and/or enforcement actions occurring prior to June 10, 2024. Actions occurring beyond that time will require future compliance engagement.

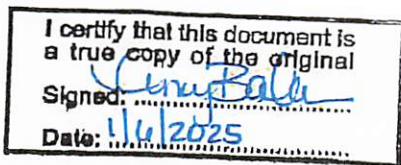
Complete – FEMA needs no further information regarding the specific address.

Future Compliance Engagement – Ian related activity. FEMA will follow-up on this site during the next compliance follow-up with the community.

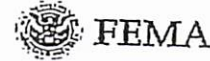
5. Documentation on the Finding Report and Site list:

Attached to this document is a list of structures within the SFHA with violations, including the type of violation, status, and needed documentation.

Final Status (as of June 28, 2024)	Count
Additional Information Needed	21
CAV Follow-Up	2
Code Enforcement Case	16
Complete	32
Future Compliance Engagement	34
Grand Total	105



U.S. Department of Homeland Security
Washington, DC 20528



National Flood Insurance Program Privacy Act Notice

RE: Town of Fort Myers Beach, FL, National Flood Insurance Program Data from the Federal Emergency Management Agency (FEMA)

The Town of Fort Myers Beach, FL is receiving data from the Federal Emergency Management Agency's that is maintained in support of the National Flood Insurance Program (NFIP). Specifically, the Town of Fort Myers Beach, FL is receiving property addresses identified by FEMA as possible violations to the local floodplain management laws and regulations. The community shall use the data to verify, monitor, and resolve the possible violation. As an NFIP participating community, this information will assist the community to ensure compliance with the NFIP and maintain the availability of flood insurance. FEMA will send the information to you securely via email on a password-protected spreadsheet or pdf.

FEMA discloses this to you pursuant to the "routine use" provision of the Privacy Act of 1974, 5 U.S.C. § 552a(b)(3), specifically under Routine Uses G, I, M, N, O, R and T of the System of Records Notice (SORN), DHS/FEMA-003 - National Flood Insurance Program Files 79 FR 28747 (May 19, 2014). The SORN may be electronically viewed at <https://www.gpo.gov/fdsys/pkg/FR-2014-05-19/html/2014-11386.htm>.

The Town of Fort Myers Beach, FL does not have permission to release the provided information to third parties, including third party contractors and will only use the data for the stated purpose. Unauthorized disclosure of FEMA data will result in an immediate denial of access to the FEMA data. Pursuant to the Privacy Act, 5 U.S.C. § 552a(e)(10), please destroy or return said personally identifiable information (PII) to FEMA once you no longer have use for it. PII is information that can be used to identify, by itself, or in combination, individuals by direct or indirect means.

In the event of a privacy incident resulting from this sharing of FEMA PII, Town of Fort Myers Beach, FL shall immediately, but in no event later than twenty-four (24) hours from suspicion, discovery or notification of the suspected or confirmed privacy incident, notify the FEMA Privacy Officer at (202) 212-5100 or FEMA-Privacy@fema.dhs.gov. FEMA will investigate the incident pursuant to DHS standard procedures and will consult the Town of Fort Myers Beach, FL to diagnose, mitigate and manage the privacy incident. The Town of Fort Myers Beach, FL will be responsible for carrying out all necessary measures to remedy the effects of the privacy incident.

By accepting the FEMA data, the Town of Fort Myers Beach, FL agrees that it shall bear all costs, losses and damages to the extent resulting from the City's breach of FEMA data. The Town of Fort Myers Beach, FL further agrees to release, defend, indemnify, and hold FEMA harmless for claims, losses, penalties and damages, and reasonable attorneys' fees and costs to the extent arising out of the Town of Fort Myers Beach, FL or its contractor's, negligence, unauthorized use or disclosure of FEMA PII and/or the Town of Fort Myers Beach, FL, or its contractor's, breach of its obligations under this sharing.

By accepting, receiving, downloading, or otherwise obtaining the routine use information or data discussed in this document, Town of Fort Myers Beach, FL understands, agrees, and accepts the terms of the use of the data as outlined in this document.

I certify that this document is
a true copy of the original

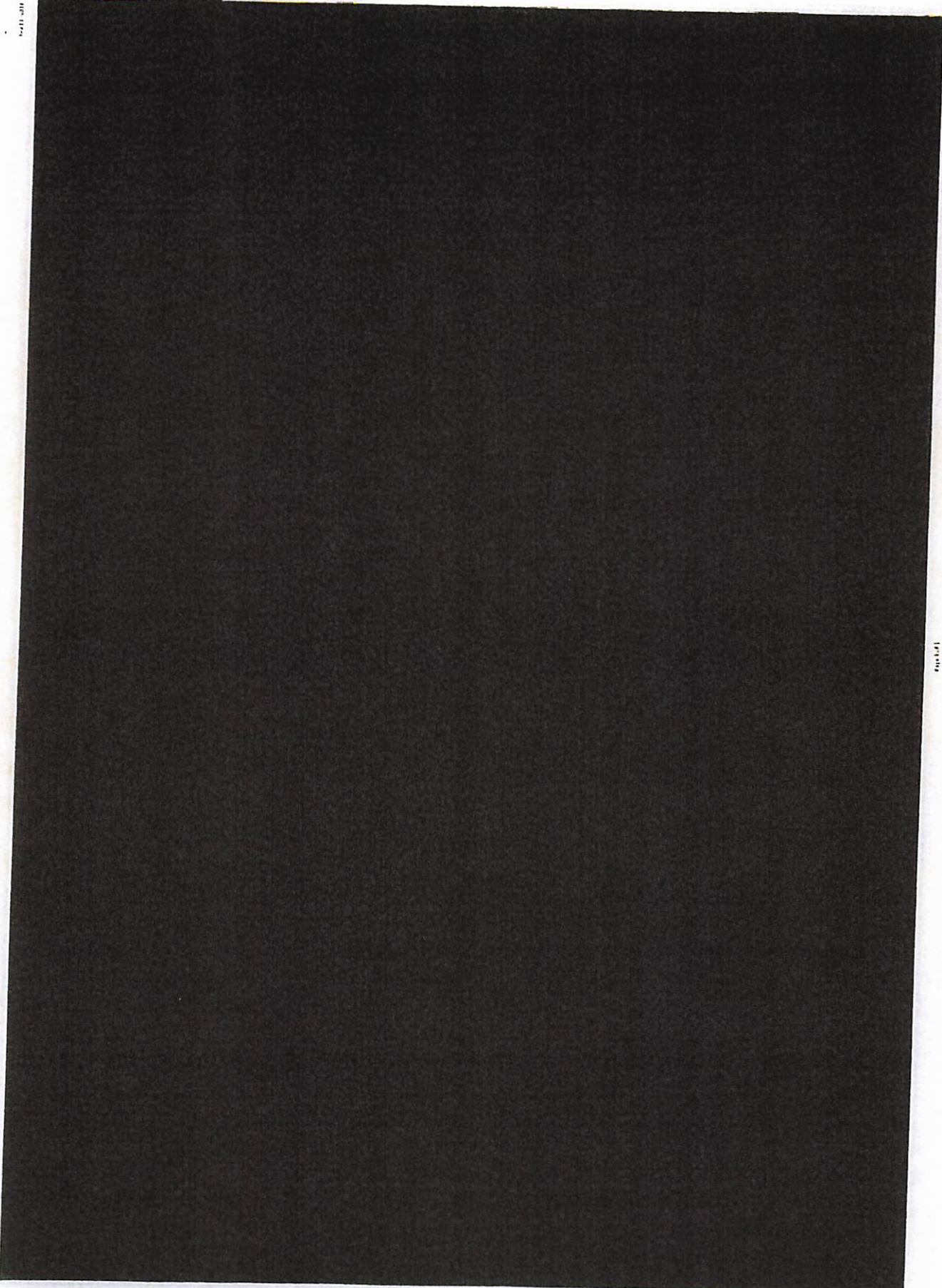
Signed: *[Signature]*

Date: 11/6/2025

I certify that this document is
a true copy of the original

Signed: Cindy Baker

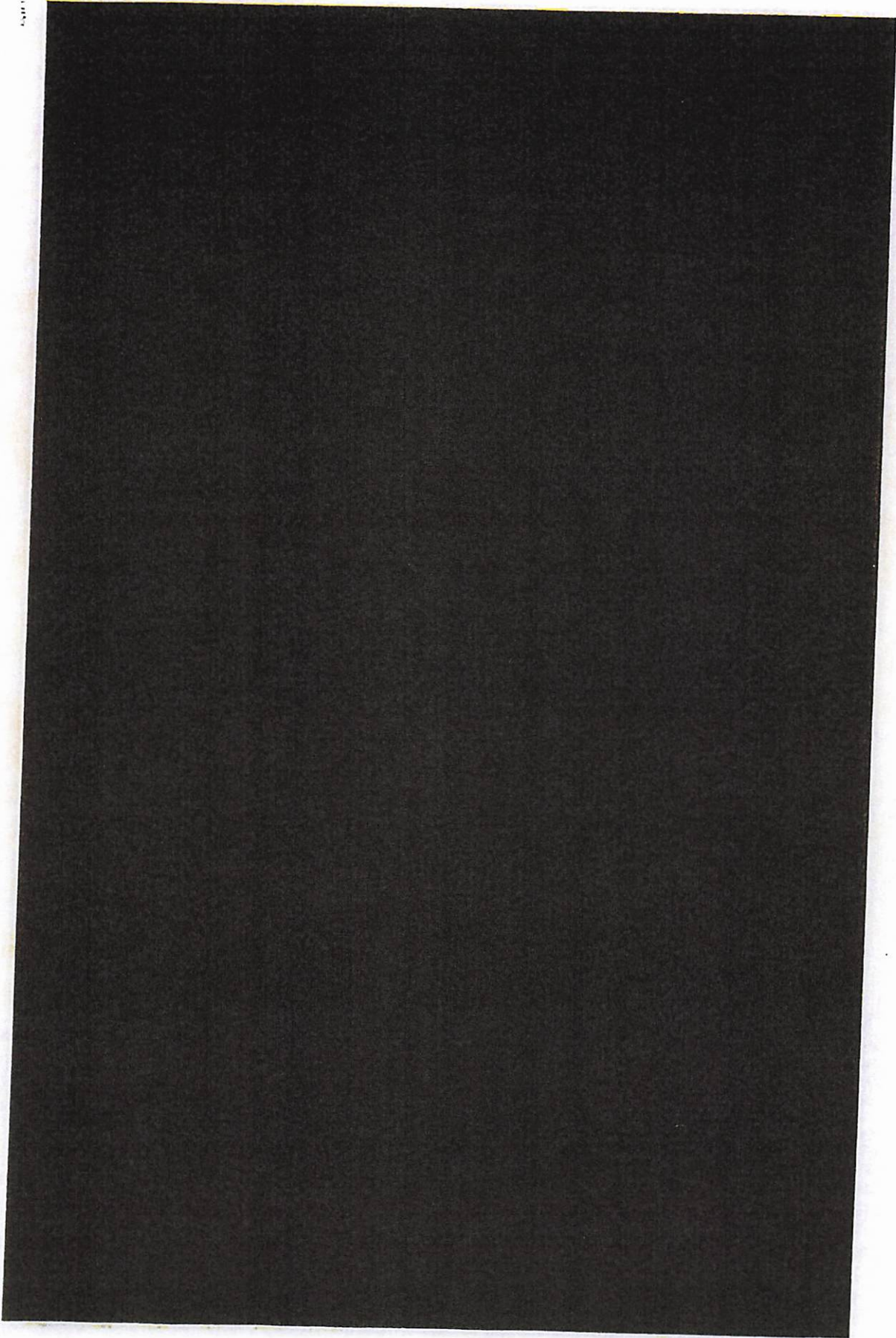
Date: 11/6/2025



I certify that this document is
a true copy of the original

Signed: Cebal

Date: 11/6/2025





I certify that this document is
a true copy of the original
Signed: Ami Ball
Date: 11/6/2024

FMBgov.com

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

VIA CERTIFIED U.S. MAIL AND ELECTRONIC MAIL

November 1, 2024

Federal Emergency Management Agency (FEMA)
U.S Department of Homeland Security
Region 4
3005 Chamblee Tucker Road
Atlanta, Georgia 30341

Attn: Robert D. Samaan
Regional Administrator
FEMA Region IV

RE: Removal of Shipping Containers and Temporary Structures
Town of Fort Myers Beach Post-Disaster Compliance Report

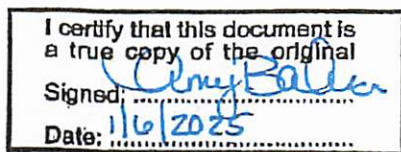
Dear Mr. Samaan,

The Town Council of the Town of Fort Myers Beach requested that we send this letter to you regarding the non-compliant structures (containers and temporary structures) in the Coastal High Hazard Area (VE zone and coastal A zone) referenced on page 2 of the Town of Fort Myers Beach Post-Disaster Compliance Status Update Report, dated July 19, 2024 ("Compliance Report"). The Compliance Report requires that the Town "provide a plan to remove the structures or bring the non-compliant structures or non-compliant additions into compliance" by November 18, 2024. The Town has been and continues to work diligently toward satisfying this requirement.

The most recent storms, Hurricanes Helene and Milton, have facilitated the removal of many of these containers and temporary structures. In fact, the recent removal of shipping containers and temporary structures as the impacts of these hurricanes threatened the Town, provided information regarding the ability to quickly disassemble

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | F. 239-765-0909 | 2731 Oak Street, Fort Myers Beach, FL 33931



and move shipping containers and temporary structures that was previously not available. For this reason, the Town Council gave direction to provide this information to you by letter.

More specifically, the owners of La Ola Surfside Restaurant, who use a 9'x 16' shipping container for a bar, were able to create a video demonstrating how quickly its shipping container could be disassembled and removed from its location on 1035 Estero Boulevard. The following is a link to the video, which has been widely circulated throughout the Fort Myers Beach Community.

https://drive.google.com/file/d/1vCB1leawpTJkXB1x877OIRInmTin2M8k9/view?usp=sharing_cil&ts=67237f46

La Ola Surfside Restaurant, as well as other businesses that temporarily operate out of shipping containers or other temporary structure, are important to the Fort Myers Beach community's recovery efforts immediately after these storms and since Hurricane Ian by providing a means to fulfill a basic human need: food.

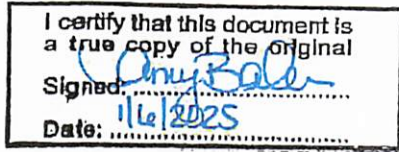
Moreover, as you are aware, the economy of a beach community such as Fort Myers Beach, is highly dependent on tourists, who visit the beach and support local businesses providing food service. In 2023-2024, the Town was awarded over \$1.5 million in tourist development dollars from the Lee County Tourist Development Board. These tourist dollars significantly assisted the Town with its recovery efforts post-Hurricane Ian and the delivery of municipal services to its residents.

In addition to tourists, the Town's economy is also highly dependent on its seasonal residents, who visit the Town from the fall through the end of spring each calendar year. Food service and other local businesses rely on the Town's seasonal residents as well as tourists to maintain operation during the winter season.

In view of the significant hardship on the operations of these businesses and the overall adverse economic impact on the Town, the Town is requesting your consideration to allow shipping containers and temporary structures, which are able to demonstrate that they can disassemble in a short period of time as evidenced in the La Ola Surfside Restaurant's video, to remain in place until June 1, 2025. An extension to June 1, 2025, would allow these local businesses to operate without interruption until the beginning of the next hurricane season.

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We appreciate your consideration of this request and look forward to discussing a limited extension of the November 18, 2024 deadline only for the removal of shipping containers and temporary structures, which can demonstrate the ability to quickly evacuate when a Hurricane Watch or Warning is issued to June 1, 2025. While this request is considered, the Town intends to continue its efforts achieve compliance with the November 18, 2024 deadline and removal of non-compliant shipping containers and temporary structures, such as La Ola Surfside Restaurant. Please do not hesitate to contact Frankie Kropacek, Operations & Compliance Director by phone at 239-955-3612 or by e-mail at fkropacek@fmbgov.com with any questions you may have. The Town looks forward to receiving a response to you regarding this request.

Sincerely,

Dan Allers, Mayor

Jim Atterholt, Vice Mayor

John R. King, Councilor

Karen Woodson, Councilor

Scott Safford, Councilor

Cc: Andrew Hyatt, Town Manager
Becky Vose, Town Attorney
Nancy Stuparich, Town Attorney
Amy Baker, Town Clerk
Frankie Kropacek, Operations & Compliance Director

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | F. 239-765-0909 | 2731 Oak Street, Fort Myers Beach, FL 33931

I certify that this document is
a true copy of the original

Signed:

Date:

Cathy Baker
11/6/2025

I certify that this document is
a true copy of the original
Signed: [Signature]
Date: 11/6/2025

U. S. Department of Homeland Security
Region 4
3005 Chamblee Tucker Road
Atlanta, GA 30341



FEMA

November 12, 2024

The Honorable Dan Allers
Mayor, Town of Fort Myers Beach
2731 Oak Street
Fort Myers Beach, FL 33931

Re: Removal of Shipping Containers and Temporary Structures Town of Fort Myers Beach Post
Disaster Compliance Report

Dear Mayor Allers:

I received the letter from the Fort Myers Beach Town Council requesting an extension for the removal of non-compliant shipping containers and temporary structures located in the Special Flood Hazard Area and Coastal High Hazard Area.

While I understand and appreciate the importance of these structures to the Town's economy and recovery, the Code of Federal Regulations that governs the National Flood Insurance Program defines the development in question as structures – not recreational vehicles. Because of this, the fact that the structures can be removed pre-event is not relevant as those conditions apply to recreational vehicles only. There are no regulations for temporary structures and occupancy which means all development in the Special Flood Hazard Area must meet the NFIP minimum standards and local floodplain management regulations. FEMA is not able to issue exemptions to the NFIP minimum standards nor extend the existence of non-compliant development.

The purpose of these regulations is to protect lives and property in the Special Flood Hazard Area. These non-compliant structures are in the most 'at risk' flood area, VE zone, also known as the Coastal High Hazard Area, which received a 14-foot storm surge during Hurricane Ian. Allowing these structures to remain in place presents a hazard to residents and businesses in the event of another storm as demonstrated by Hurricanes Helene and Milton. For these reasons I am unable to grant the Town's request to allow the structures in question to remain in place beyond the current deadline.

I certify that this document is a true copy of the original
Signed: <u>Jacky Bell</u>
Date: <u>11/6/2025</u>

You have my commitment to continue to support you and your team as you manage Hurricane Ian recovery and as you work to take the necessary compliance measures to avoid probation and possible suspension from the NFIP. If you have any questions or at any time need technical assistance to address these issues, please contact FEMA Region 4 Office, Jason Hunter, Floodplain Management and Insurance Branch chief, at Jason.hunter@fema.dhs.gov or 770-220-5471.

Sincerely,

Jacky S. Bell
Mitigation Division Director

cc: Kevin Guthrie, Executive Director, Florida Division of Emergency Management



FEMA

November 21, 2024

Andy Hyatt, Manager
Town of Fort Myers Beach
2731 Oak Street
Fort Myers Beach, FL 33931

Re: National Flood Insurance Program Participation

Dear Mr. Hyatt:

Once again, I'd like to thank you and your staff for the long hours and hard work during the last several months to correct the Town of Fort Myers Beach's issues regarding the National Flood Insurance Program (NFIP). Our teams have made great progress in helping ensure the city and their residents are more resilient and prepared for future storms.

On July 19, 2024, the Town received a letter from this office indicating the potential of being placed in probationary status with the NFIP if certain conditions were not met. These conditions consisted of five action items to be completed by November 18, 2024.

These action items were:

1. Develop and submit a plan that includes actions and timelines to address all identified program deficiencies and violations to the maximum extent possible.
2. Assess all floodplain development from Hurricane Ian in the Special Flood Hazard Area, ensuring that permits for all repairs, construction and development were obtained consistent with local floodplain management regulations.
3. Provide documentation that demonstrates your community is leveraging its code enforcement process to address new and existing code cases for all structures not confirmed as compliant.
4. Put a process in place to ensure substantial damage compliance for future events.
5. Remove noncompliant structures that were incorrectly permitted and should not have been placed in the Special Flood Hazard Area.

We appreciate that the Town of Fort Myers Beach accomplished the first and fourth action items by submitting a plan to address deficiencies and establishing a process to ensure substantial damage compliance for future events.

However, our teams have identified additional work that needs to occur for items 2, 3 and 5.

The crosswalk assessment tool created has not been completed by town officials which prevents both items 2 and 3 from being completed. For the 5th item, the town also did not remove non-compliant structures that were incorrectly permitted and should not have been placed in the Special Flood Hazard Area.

We acknowledge the work invested by you and your team has resulted in some improvements to meet minimum floodplain management standards. However, because of the outstanding compliance issues remaining, **the Town will be placed on probation with the National Flood Insurance Program effective November 18, 2024.**

During this probationary period, flood insurance coverage will remain available within the Town of Fort Myers Beach; however, a \$50 surcharge will be added to the premium of each new and renewed flood insurance policy sold within the community. Probation will remain in effect until all remaining program deficiencies and violations have been corrected to the maximum extent possible. Effective April 1, 2025, the town will be retrograded to a Class 10 in the Community Ratings System and policy premium discounts will not be applied to new or renewing policies. The Town is not eligible to reapply to the Community Rating System for a higher-class rating until the Town's probationary period is concluded, the Town is in full compliance with the minimum requirements of the National Flood Insurance Program, and at least two years has passed since the Town was placed in probationary status.

I am committed and I've instructed my staff that we will continue to provide technical assistance to Fort Myers Beach to meet the required program standards and potentially end probation as soon as practicable.

If you have any questions or at any time need technical assistance to address these issues, please contact FEMA Region 4 Office, Jacky Bell, Mitigation Division Director, at jacky.bell@fema.dhs.gov or 404-273-4710.

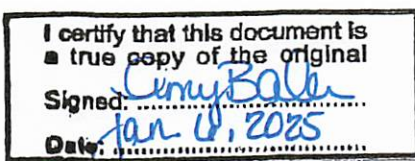
Sincerely,



Robert D. Samaan
Regional Administrator

cc:

Jason Hunter, Region Floodplain Management & Insurance Branch Chief
Jillian Kraynak, Florida NFIP State Coordinator



RESOLUTION NUMBER 24-296

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA ADOPTING A RESOLUTION TO REVOKE AND RESCIND EMERGENCY TEMPORARY PLACEMENT PERMITS AS PROVIDED AND AUTHORIZED IN SECTION 2 OF ORDINANCE 24-4 OF THE TOWN OF FORT MYERS BEACH, WHICH CLARIFIED ORDINANCE 23-05 RELATED TO TEMPORARY PLACEMENT PERMITS, IN FURTHERANCE AND IN SATISFACTION OF DIRECTION CONTAINED IN A LETTER DATED NOVEMBER 21, 2024 FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY ("FEMA") MANDATING REMOVAL OF NONCOMPLIANT STRUCTURES THAT WERE INCORRECTLY PERMITTED IN THE SPECIAL FLOOD HAZARD AREA, IN ORDER TO COMPLY WITH MINIMUM FLOODPLAIN STANDARDS AND THE REQUIREMENTS OF THE NATIONAL FLOOD INSURANCE PROGRAM; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article VIII, Section 2 of the State Constitution and Chapter 166 of the 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 services, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter empowers the Town Council to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, on September 28, 2022, Hurricane Ian made landfall north of the Town causing historical property damage and loss of life; and

WHEREAS, the Town Council recognized that recovery from a devastating natural disaster such as Hurricane Ian, created an immediate need for temporary housing, governmental services, and commercial uses for the Town's residents and adopted Ordinance 23-05 on May 15, 2023 to provide a temporary relief and the placement of certain structures in the Special Flood Hazard Area; and

WHEREAS, on May 6, 2024 the Town Council adopted Ordinance 24-04 amending and restating Ordinance 23-05 to clarify its intent at the time of adoption and to continue to provide temporary assistance to residents and to aid in the Town's redevelopment efforts by the emergency temporary placement of structures governmental, residential (manufactured homes, mobile homes, motor homes, recreational vehicles, or other temporary residential dwellings) or moveable commercial use; and

WHEREAS, both ordinances provided that permits issued under either Ordinance would be issued in increments of 6 months and would not exceed 18 months without demonstration of a hardship to the Town Manager; and

WHEREAS, Section 2 of Ordinance 24-04 further clarified that the Town Council intended permitted uses to be temporary in nature, and thereby subject to revocation and rescission at a future date under certain circumstances. More specifically, Paragraph 2 of Ordinance 24-04 identified several circumstances in which these temporary permitted uses required removal:

Unless otherwise provided in this Ordinance or in a Resolution that is adopted hereinafter 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 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. (Emphasis added).

WHEREAS, Section 2 of Ordinance 24-04(xi) also provided that the issued permit could be revoked for "noncompliance with applicable federal law/regulation, state law and town code"; and

WHEREAS, the number of outstanding temporary permits approved by the Town has decreased as a result of additional hurricanes impacting the Town subsequent to Hurricane Ian, the permitted rebuilding of destroyed properties; and the voluntary removal of the temporary permitted uses; and

WHEREAS, on July 19, 2024 and September 3, 2024, the Town was notified by the Federal Emergency Management Administration ("FEMA") that the Town would be placed on permanent probation from participation in the National Flood Insurance Program if it allowed structures needed for these temporary uses to continue subsequent to November 18, 2024 in the Special Flood Hazard Area; and

WHEREAS, Section 6-494 of the Town of Fort Myers Beach Land Development Code defines the Special Flood Hazard Area as "[a]n area in the floodplain subject to a one- percent or greater chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V. [Also defined in FBC, B Section 202.]", which in effect encompasses the entirety of the Town; and

WHEREAS, despite efforts by the Town Council to extend the November 18, 2024 FEMA deadline, the Town was notified by letter on November 21, 2024, that the Town was placed on probation with the National Flood Insurance Program effective November 18, 2024 in part due to its failure to "[r]emove noncompliant structures that were incorrectly permitted and should not have been placed in the Special Flood Hazard Area"; and

WHEREAS, in order to comply with minimum floodplain standards and the requirements of the National Flood Insurance Program, the Town must now revoke and rescind emergency temporary placement permits which allow noncompliant structures in the Special Flood Hazard Area; and

WHEREAS, the definition of a "structure" for floodplain management purposes pursuant to 44 CFR Part 59.1 includes "any walled and roofed building, manufactured home or travel trailer without wheels," and

WHEREAS, the definition of a "manufactured home" for floodplain management purposes pursuant to 44 CFR 59.1 is "a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle"; and

WHEREAS, adoption of this Resolution is in the best interest of the residents of the Town as a step towards removal of its probationary status in the National Flood Insurance Program and compliance with its floodplain regulations.

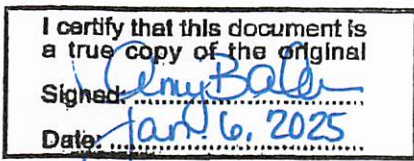
NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

Section 1. The foregoing "Whereas" clauses are ratified and confirmed as being true and correct, are the legislative and administrative findings of the Town Council and are made a specific part of this Resolution.

Section 2. All emergency temporary placement permits for "noncompliant structures that were incorrectly permitted and should not have been placed in the Special Flood Hazard Area" are hereby revoked and rescinded.

Section 3. The Town Manager is directed and authorized to immediately take the following actions to implement this Resolution:

1. Provide formal Notice to holders of any emergency temporary placement permit by certified mail, posting on the property and any other known method for notification that:
 - a) the permit is revoked and rescinded as of December 16, 2024; and
 - b) the permit holder may appeal this revocation action pursuant to Section 34-86 of the Code of Ordinances as stated in Section 4 of Ordinance 24-04, or by any other lawful means; and
 - c) the contact information for a member of the Town staff, who can answer questions and provide more information.



The Notice shall also include a copy of this Resolution and FEMA's letter of November 21, 2204

2. Initiate or continue any needed code enforcement action against permit holders who fail to immediately begin removal of noncompliant structures.

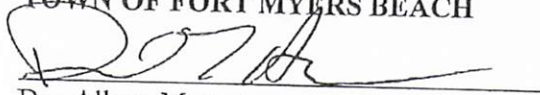
Section 4. This Resolution shall take effect immediately upon its adoption by the Town Council of the Town of Fort Myers Beach.

THE FOREGOING RESOLUTION was adopted by the Town Council upon motion by Mayor Allers and seconded by Vice Mayor Atterholt, and upon being put to a vote, the result was as follows:

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

APPROVED AND ADOPTED this 16th day of December 2024, by the Town Council of the Town of Fort Myers Beach, Florida.

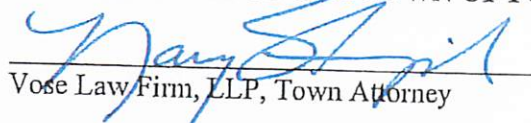
TOWN OF FORT MYERS BEACH


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, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 16th day of December 2024.



FEMA

July 24, 2025

The Honorable Will McKannay
Town Manager, Town of Fort Myers Beach
6231 Estero Blvd
Fort Myers Beach, FL 33931

Reference: National Flood Insurance Program (NFIP) Community Assistance Visit (CAV)
Report of Findings

Dear Mr. McKannay:

The purpose of this letter is to provide you with our findings from the CAV that the Federal Emergency Management Agency (FEMA) conducted from Tuesday, July 15, 2025, to Thursday, July 17, 2025. Thank you for the courtesy extended to Tamara Hansen, Pier Janrhett and Yuzzeff Henderson of FEMA Region 4 and Scott Gaines, of the Florida Department of Emergency Management (FDEM).

An introductory meeting was held by FEMA Specialists Tamara Hansen, Pier Janrhett, Yuzzeff Henderson Melendez, Scott Gaines with FDEM, yourself and members of the Town of Fort Myers Beach staff including Thomas Yozzo, Tracie Kohler, Kelly Defedericis, Frankie Kropacek, Georgina Cid, Shanette Thomas and Traci Raski. FEMA Region 4 Staff, Jacky Bell and Jason Hunter, Mr. Michael Burchette (FDEM) attended virtually. As stated during the meeting, we are very appreciative of the Town's efforts to prepare for the CAV and extended attendance of your staff for the duration of the CAV.

The purpose of this visit was to determine if the Town of Fort Myers Beach's floodplain management program is compliant with the minimum requirements of the National Flood Insurance Program. During this visit, outstanding sites identified in the Community Rating System (CRS) Retrograde appeal process in April 2024, were discussed. These sites were originally identified during field tours conducted in October and November 2023, following technical assistance visits after Hurricane Ian. During the permit reviews conducted as part of the CRS Retrograde appeal process, FEMA personnel identified various actions that were in violation of the Town's floodplain management program resulting in the community's probation from the National Flood Insurance Program. Subsequently, the Town was retrograded in CRS, effective April 1, 2025.

On April 28, 2025, the Town was notified that the requirement to be removed from probation under the NFIP had been met, effective November 18, 2025.

During the CAV, the Town of Fort Myers Beach's floodplain management program and the floodplain development permit process were reviewed and discussed. Additionally, a field tour was conducted to capture potential violations in the floodplain.

We have reviewed the Town's floodplain management regulations in Ordinance 24-03 and found that it meets the minimum requirement of the National Flood Insurance Program. We didn't find language adopting Limit of Moderate Wave Action requirements beyond the Florida Building Code, nor the state's accessory language which is based upon FEMA Policy #104-008-03. Please contact Scott Gaines at scott.gaines@em.myflorida.com if the Town is interested in adopting language related to either of these topics.

During the visit, the following programmatic deficiencies were identified and must be resolved:

1. Substantial Damage/Substantial Improvement Determination Process

○ *Concerns:*

- During the permit documentation review, evidence showed that permits were issued prior to a Substantial Damage/Substantial Improvement determination having been made by the Town, resulting in non-compliant structures that were potentially Substantial Damaged/Substantial Improved and repaired without being brought into compliance with the Town's floodplain management regulations.
- Additionally, the permitting staff who reviewed and issued permits didn't have access to Substantial Damage determinations list, which lead to permits being issued for structures that had been deemed to be Substantially Damaged, without ensuring the structures were brought into compliance with the Town's floodplain management regulations.
- Some of the cost to repair estimates seem to only include costs to repair damages located below the base flood elevation.
- In the Town's Substantial Damage Management Plan, November 2024-Draft, *Cost of Work Verification – Pre-Permit Issuance* section, it indicates that verification of repairs and associated cost to repair the structure will be accounted for before issuing a building permit.
-

○ *Corrective actions require:*

- On or before August 8, 2025, provide a Standard Operating Procedure that documents the Substantial Damage/Substantial Improvement Determination Process and the permitting process. This should include how determinations are shared with staff who process permit applications.

2. Floodplain reviews related to Private Providers

○ *Concerns:*

- The Town requires Under Construction Elevation Certificates to be submitted and approved, before the building's construction goes vertical.
- Private providers aren't complying with this requirement. Permits that were reviewed for documented structures well beyond this tie-beam inspection that had failed to submit Under Construction Elevation Certificates.
- Failure to take corrective actions can result in non-compliant structures being identified after construction has been completed.

○ *Corrective actions require:*

- On or before August 8, 2025, provide revised permitting process procedures and any supporting documentation that addresses failure by the Private Providers to meet the Town's requirement for submittal of the Under Construction Elevation Certificate.

3. The Town adopted the following ordinances to allow temporary placement of various types of units: "Temporary Placement of Emergency Uses, Manufactured Homes, Mobile Homes, Motor Homes, Recreational Vehicles Other Temporary Residential Dwelling or Temporary Moveable Commercial Units" (Ordinance 23-05), "Temporary Governmental, Residential (Manufactured Homes, Mobile Homes, Motor Homes, Recreational Vehicles Other Temporary Residential Dwellings) or Movable Commercial Uses following Natural Disasters or Other Emergencies" (Ordinance 24-04), and "RESOLUTION TO REVOKE AND RESCIND EMERGENCY TEMPORARY PLACEMENT PERMITS" (Resolution Number 24-296).

▪ *Concerns:*

- Ordinance 23-05 and 24-04 authorized installation of non-compliant temporary units.
- Resulted in numerous non-compliant temporary units. Some have been removed, while others are still present.
- Resolution Number 24-296 (approved December 16, 2024) "mandated removal of noncompliant structures that were incorrectly permitted," but numerous noncompliant structures remain in place.

▪ *Corrective actions require:*

- On or before August 8, 2025, remove the non-compliant temporary structures.

During the field tour, data for 252 sites was collected. The list of addresses includes sites that fall into the following categories: 1) non-compliant structures that need to be mitigated, 2) structures that require additional documentation to determine compliance, and 3) temporary structures that need to be elevated and anchored or removed. The list of site addresses with the required action/documentation are in the attached Site List.

Following the field tour, an exit meeting was held with the Town, FEMA, and FDEM staff on July 17, 2025. FEMA's findings of the community's floodplain management program and the floodplain development permit process were discussed. As stated in the meeting, we ask that you review each program deficiency and the attached site list. The deadline to submit the requested documents or documented actions is August 8, 2025.

We recommend that the staff who support the administration and enforcement of the Town's floodplain management program, including code enforcement staff, also attend floodplain management training courses. FEMA's National Disaster and Emergency Management University (NDEMU) and the Florida Floodplain Managers Association (FFMA) offer various floodplain management-related training courses for local officials. For your convenience, web addresses for NDEMU's and FFMA's website are provided below:

www.training.fema.gov
flfloods.org

We appreciate the Town of Fort Myers Beach's commitment to administering the NFIP. We would like to remind you that the requirement for participation in the CRS is your community's full compliance with the NFIP. Again, we request that the Town provide the requested documentation by August 8, 2025, for consideration of reinstatement to the CRS program on April 1, 2026. If your staff members have questions or require additional information, Ms. Tamara Hansen may be reached by telephone at (770) 220-5288 or by e-mail at tamara.hansen@fema.dhs.gov and Pier Janrhett may be reached by telephone at (202) 826-5655 or by e-mail at pier.janrhett@fema.dhs.gov.

Sincerely,

Jacky S. Bell
Director
Mitigation Division

Attachment: Site List

Cc: Ms. Jillian Kraynak, Florida NFIP State Coordinator
Ms. Traci Kohler, Deputy Town Manager, Town of Fort Myers Beach
Ms. Kelli Defedericis, Floodplain Administrator, Town of Fort Myers Beach
Mr. Tom Yozzo, Emergency Services Director, Town of Fort Myers Beach
Mr. Frankie Kropacek, Operations & Compliance Director, Town of Fort Myers Beach

HEARING

EXHIBIT

C

- Violated Regulation(s)

See relevant highlighted section(s) of
applicable code

- 1.6. Adverse effects to the footing, foundation, concrete or other structural element due to the ground water table.
2. Concrete that has been subjected to any of the following conditions:
 - 2.1. *Deterioration.*
 - 2.2. *Ultimate deformation.*
 - 2.3. Fractures.
 - 2.4. Fissures.
 - 2.5. Spalling.
 - 2.6. Exposed reinforcement.
 - 2.7. *Detached*, dislodged or failing connections.
3. Aluminum that has been subjected to any of the following conditions:
 - 3.1. *Deterioration.*
 - 3.2. Corrosion.
 - 3.3. Elastic deformation.
 - 3.4. *Ultimate deformation.*
 - 3.5. Stress or strain cracks.
 - 3.6. Joint fatigue.
 - 3.7. *Detached*, dislodged or failing connections.
4. Masonry that has been subjected to any of the following conditions:
 - 4.1. *Deterioration.*
 - 4.2. *Ultimate deformation.*
 - 4.3. Fractures in masonry or mortar joints.
 - 4.4. Fissures in masonry or mortar joints.
 - 4.5. Spalling.
 - 4.6. Exposed reinforcement.
 - 4.7. *Detached*, dislodged or failing connections.
5. Steel that has been subjected to any of the following conditions:
 - 5.1. *Deterioration.*
 - 5.2. Elastic deformation.
 - 5.3. *Ultimate deformation.*
 - 5.4. Metal fatigue.
 - 5.5. *Detached*, dislodged or failing connections.
6. Wood that has been subjected to any of the following conditions:
 - 6.1. Ultimate deformation.
 - 6.2. Deterioration.
 - 6.3. Damage from insects, rodents and other vermin.
 - 6.4. Fire damage beyond charring.
 - 6.5. Significant splits and checks.
 - 6.6. Horizontal shear cracks.
 - 6.7. Vertical shear cracks.
 - 6.8. Inadequate support.
 - 6.9. *Detached*, dislodged or failing connections.

- 6.10. Excessive cutting and notching.

Exceptions:

1. Where substantiated otherwise by an *approved* method.
2. Demolition of unsafe conditions shall be permitted where *approved* by the *code official*.

SECTION 307 HANDRAILS AND GUARDRAILS

307.1 General. Every exterior and interior flight of stairs having more than four risers shall have a handrail on one side of the stair and every open portion of a stair, landing, balcony, porch, deck, ramp or other walking surface that is more than 30 inches (762 mm) above the floor or grade below shall have *guards*. Handrails shall be not less than 30 inches (762 mm) in height or more than 42 inches (1067 mm) in height measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. *Guards* shall be not less than 30 inches (762 mm) in height above the floor of the landing, balcony, porch, deck, or ramp or other walking surface.

Exception: *Guards* shall not be required where exempted by the adopted building code.

SECTION 308 RUBBISH AND GARBAGE

308.1 Accumulation of rubbish or garbage. *Exterior property* and *premises*, and the interior of every *structure*, shall be free from any accumulation of *rubbish* or *garbage*.

308.2 Disposal of rubbish. Every *occupant* of a *structure* shall dispose of all *rubbish* in a clean and sanitary manner by placing such *rubbish* in *approved* containers.

308.2.1 Rubbish storage facilities. The *owner* of every occupied *premises* shall supply *approved* covered containers for *rubbish*, and the *owner* of the *premises* shall be responsible for the removal of *rubbish*.

308.2.2 Refrigerators. Refrigerators and similar equipment not in operation shall not be discarded, abandoned or stored on *premises* without first removing the doors.

308.3 Disposal of garbage. Every *occupant* of a *structure* shall dispose of garbage in a clean and sanitary manner by placing such garbage in an *approved* garbage disposal facility or *approved* garbage containers.

308.3.1 Garbage facilities. The *owner* of every dwelling shall supply one of the following: an *approved* mechanical food waste grinder in each *dwelling unit*; an *approved* incinerator unit in the *structure* available to the *occupants* in each *dwelling unit*; or an *approved* leakproof, covered, outside garbage container.

308.3.2 Containers. The *operator* of every establishment producing garbage shall provide, and at all times cause to be utilized, *approved* leakproof containers provided with close-fitting covers for the storage of such materials until removed from the *premises* for disposal.

The 2018 Edition of the International Property Maintenance Code is hereby amended as follows:

- (a) Wherever the term "code official" appears in the International Property Maintenance Code, that term shall be interpreted to mean the Director of the Department or Community Development or his or her designee. Wherever the term "department" appears in this code, it shall be interpreted to mean the Department of Community Development. Wherever the terms "International Building Code" or "International Existing Building Code" appear in this code, the term "Florida Building Code" shall be substituted for such terms.
- (b) Section 101.1 Title, is amended to read as follows:

These regulations shall be known as the Property Maintenance Code of the Town of Fort Myers Beach, Florida, hereinafter referred to as "this code."
- (c) *Section 102.3 Application of other codes*, is amended to read as follows:

Repairs, additions or alterations to a structure, or changes of occupancy shall be done in accordance with the procedures and provisions of the Florida Building Code, as amended.
- (d) *Section 102.6 Historic Buildings*, is amended to read as follows:

The provisions of this code shall not be mandatory for existing buildings or structures formally or officially designated as historic buildings by either the federal government, the state, or the Town, provided such buildings or structures are judged by the Building Official to be safe and in the public interest of health, safety and welfare.
- (e) *Section 102.7 Referenced codes and standards*, is amended to read as follows:

The codes and standards referenced in this code shall be the Florida Building Code, the Florida Fire Prevention Code, the Life Safety Code and any other code or standard contained in Articles II, III and IV in Chapter 6 of the Land Development Code. Where there are differences between provisions of this code, the Florida Building Code and any other code or standard contained in Articles II, III and IV in Chapter 6 of the Land Development Code, the Florida Building Code, the Florida Fire Prevention Code, the Life Safety Code, and any other code or standard contained in Articles II, III, and IV in Chapter 6 of the Land Development Code shall prevail.
- (f) *Section 103 Department of Property Maintenance Inspection* is hereby deleted in its entirety.
- (g) *Section 104.4 Right of Entry* is hereby deleted in its entirety.
- (h) Section 106.3 Prosecution of Violation, is hereby amended to read as follows:

Any person who fails to comply with a notice of violation or order served in accordance with Section 107 shall be adjudicated in accordance with the provisions of Chapter 162 of the Florida Statutes or any other method allowed by Florida law, or as provided in the codes and ordinances of the Town of Fort Myers.

- (i) *Section 107.2 Form*, is hereby amended to read as follows:

The notice prescribed in Section 107.1 shall comply with the requirements of F.S. ch. 162.

- (j) *Section 107.3 Method of Service*, is hereby amended to read as follows:

All notices shall be deemed to have been properly served if the service requirements contained in F.S. ch. 162 have been met.

- (k) *Section 107.5 Penalties*, is hereby amended to read as follows:

Penalties for noncompliance with orders and notices shall be as set forth in F.S. ch. 162, and the codes and ordinances of the Town of Fort Myers Beach.

- (l) *Section 107.6 Transfer of Ownership*, is hereby amended to read as follows:

If the owner of property that is subject to a code enforcement proceeding before the special magistrate, or court transfers ownership of such property between the time the notice of violation was served and the time of the hearing, such owner shall:

- (1) Disclose, in writing, the existence and the nature of the proceeding to the prospective transferee.
 - (2) Deliver to the prospective transferee a copy of the pleadings, notices, and other materials relating to the code enforcement proceeding received by the transferor.
 - (3) Disclose, in writing, to the prospective transferee that the new owner will be responsible for compliance with the applicable code and with orders issued in the code enforcement proceeding.
 - (4) File a notice with the code official of the transfer of the property, with the identity and address of the new owner and copies of the disclosures made to the new owner, within 5 days after the date of the transfer.
 - (5) A failure to make the disclosures described in paragraphs (1), (2), and (3) before the transfer creates a rebuttable presumption of fraud. If the property is transferred before the hearing, the proceeding shall not be dismissed, but the new owner shall be provided a reasonable period of time to correct the violation before the hearing is held.
- (m) *Section 108.2 Closing of vacant structures*, is hereby amended to read as follows:

If the structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the code official is authorized to post a placard of condemnation on the premises and order the structure closed up so as not to be an attractive nuisance. Upon failure of the owner to close up the premises within the time specified in the order, the code official shall cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate for said costs. The lien shall be superior to all other liens and encumbrances, including prior recorded mortgage or judgments and only inferior to liens for taxes. In the event the owner or person creating the need for closing or securing the premises fails and refuses to pay or reimburse the Town for the costs, the Town may foreclose said lien in accordance with the law applicable to the foreclosure of such liens and the Town shall be entitled to recover its reasonable attorney's fees and costs incurred in such foreclosure action.

- (n) *Section 108.7 Record*, is hereby amended to read as follows:

The code official shall prepare a report on an unsafe condition. In addition, a written notice of the unsafe condition shall be recorded in the public records for Lee County. The notice shall state the occupancy of the structure and the nature of the unsafe condition.

- (o) *Section 109.5 Costs of emergency repairs*, is hereby amended to read as follows:

Costs incurred in the performance of emergency work shall be paid by the Town. All costs incurred by the Town in the performance of emergency work shall be a lien upon such real estate for said costs. The lien shall be superior to all other liens and encumbrances, including prior recorded mortgage or judgments and only inferior to liens for taxes. In the event the owner or person creating the need for emergency repairs fails and refuses to pay or reimburse the Town for the costs, the Town may foreclose said lien in accordance with the law applicable to the foreclosure of such liens and the Town shall be entitled to recover its reasonable attorney's fees and costs incurred in such foreclosure action.

- (p) *Section 109.6 Hearing*, is hereby amended to read as follows:

Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon appeal to the Town Council, be afforded a hearing as described in this code.

- (q) *Section 110.1 General*, is hereby amended to read as follows:

The code official shall order the owner of any premises upon which is located any structure, which in the code official's judgment after review is so deteriorated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove

such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary, or to board up and hold for future repair or to demolish and remove at the owner's option; or where there has been a cessation of normal construction in accordance with the Florida Building Code, the code official shall order the owner to demolish and remove such structure, or board up until future repair. Boarding the building up for future repair shall not extend beyond one year, unless approved by the Building Official.

(r) *Section 110.3 Failure to comply*, is hereby amended as follows:

If the owner of a premises fails to comply with a demolition order within the time prescribed, the Town shall cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate for said costs. In the event the owner or person creating the need for demolition and removal fails and refuses to pay or reimburse the Town for the costs, the Town may foreclose said lien in accordance with the law applicable to the foreclosure of such liens and the Town shall be entitled to recover its reasonable attorney's fees and costs incurred in such foreclosure action.

(s) *Section 111.1 Application for appeal*, is hereby amended to read as follows:

Any person directly affected by a decision of the code official or a notice or order issued pursuant to this code shall have the right to appeal to the Town Council, provided that a written application for appeal is filed within 20 days after the day the decision, notice or order was served on the affected person or from the date of posting on the property. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, that the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means. This section shall not apply to orders issued by the Town special magistrate in connection with a code enforcement special magistrate hearing.

(t) *Sections 111.2 through Section 111.8* are hereby deleted in their entirety.

(u) *Section 112.4 Failure to comply*, is hereby amended to read as follows:

Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be guilty of a code violation and shall be subject to a fine as determined by the Town special magistrate.

(v) *Section 302.3 Sidewalks and driveways*, is hereby amended to read as follows:

Section 302.3. Sidewalks, driveways and rights-of-way. All sidewalks, walkways, stairs, driveways, parking spaces, and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions. Trees and shrubs shall be maintained to provide for horizontal clearance of at least three (3) feet from and vertical clearance of at least eight (8) feet above any sidewalk, bike path, or street right-of-way. Unpaved areas shall be regularly mowed or otherwise maintained in a neat and attractive condition.

(w) *Section 302.4 Weeds*, is hereby amended to read as follows:

All premises and exterior property shall be maintained free from weeds or plant growth in excess of 12 inches. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs, provided, however, this term shall not include cultivated flowers and gardens and native beach vegetation such as sea oats. Upon failure of the owner or agent having charge of a property to cut and destroy weeds after service of a notice of violation and having been given a reasonable time to cut and destroy the weeds, any duly authorized employee of the Town or contractor hired by the Town shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the owner or agent responsible for the property. All costs incurred by the Town to cut and destroy the weeds shall be a lien upon such real estate for said costs. The lien shall be superior to all other liens and encumbrances, including prior recorded mortgage or judgments and only inferior to liens for taxes. In the event the owner or agent fails and refuses to pay or reimburse the Town for its costs, the Town may foreclose said lien in accordance with the law applicable to the foreclosure of such liens and the Town shall be entitled to recover its reasonable attorney's fees and costs incurred in such foreclosure action.

(x) *Section 302.8 Motor Vehicles*, is hereby amended to read as follows:

Section 302.8 Motor Vehicles and Boats. Except as provided for in other regulations, no inoperative or unlicensed motor vehicle or boat shall be parked, kept or stored on any premises, and no vehicle or boat shall at any time be in a state of major disassemble, disrepair, or in the process of being stripped or dismantled. Painting of vehicles or boats is prohibited unless conducted inside an approved spray booth.

Exception: A vehicle or boat of any type is permitted to undergo major overhaul, including body or hull work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.

(y) A new *Section 302.10* is hereby added as follows:

Section 302.10 Exterior Storage.

1. No temporary or permanent storage of materials or equipment is permitted on any vacant parcel, unless in conjunction with an active building permit or where such storage is specifically permitted by Chapter 34 of the Land Development Code.
2. Equipment, materials, and furnishings not designed for use outdoors, such as automotive parts and tires, building materials, and interior furniture, may not be stored outdoors.

(z) *Section 303.2 Enclosures*, is hereby amended to read as follows:

Public swimming pools, hot tubs and spas shall include all safety features specified by F.S. § 514.0315, including any subsequent amendments thereto. Residential swimming pools shall be maintained in compliance with the State Residential Swimming Pool Safety Act, as contained in F.S. ch. 515.

(aa) A new *Section 303.3* is hereby added as follows:

Section 303.3 Disposal of swimming pool water. Prior to disposing of any swimming pool water, chlorine and bromine levels must be reduced by not adding chlorine or bromine for a least five (5) days or until levels are below 0.1 mg per liter. One of the following methods of disposal shall be utilized:

1. Discharge of the water into roadside swales to allow for percolation of the water into the ground without any runoff to canals, beaches, wetlands, other tidal waters, or onto adjoining properties. This shall be the preferred method of disposal.
2. Discharge of the water into the sanitary sewer system operated by Lee County Utilities is also permitted, but is not the preferred method.

Under no circumstances shall any swimming pool water be discharged either directly or indirectly onto the beach, or into canals, wetlands, or any other tidal waters.

(bb) *Section 304.3 Premises Identification*, is hereby amended to read as follows:

All buildings shall have address numbers that have been assigned by Lee County placed in a position to be plainly legible and visible by emergency personnel from the street or road fronting the property. All address numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of 3 inches high. Numbers on all commercial, institutional, or multifamily buildings that are set back more than 50 feet from the street shall be at least eight inches high.

(cc) *Section 304.14 Insect screens*, is hereby amended to read as follows:

Every window in a residential structure that is capable of being opened and every door, window, and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged, or stored shall be

supplied with approved tightly fitting screens of not less than 16 mesh per inch (16 mesh per 25 mm), and every screen door used for insect control shall have a self-closing device in good working condition. Screens shall not, however, be required where other approved means, such as air curtains or insect repellent fans, are employed.

(dd) A new *Section 308.4* is hereby added as follows:

308.4 Additional Regulations for Rubbish and Garbage Containers.

1. Rubbish and Garbage containers shall not be moved to the street more than 24 hours prior to scheduled curbside collection, nor remain there more than 24 hours after scheduled collection.
2. Each refuse container that is not movable shall be opaquely screened from view from streets and adjoining properties and such screening shall be of sufficient height to entirely screen the container. Screening may be achieved by landscaping, wall, or opaque fencing provided the wall or fence does not exceed the maximum height permitted for the property.
3. Any rubbish or garbage container not located within a roofed enclosure must have a cover or lid that renders the interior of the container inaccessible to animals.

(ee) *Section 402.2 Common halls and stairways*, is hereby amended to read as follows:

Every common hall and stairway in residential occupancies, other than in one- and two-family dwellings, shall be lighted at all times with at least a 60-watt standard incandescent light bulb for each 200 square feet (19 m²) of floor area or equivalent illumination, provided that the spacing between lights shall not be greater than 30 feet (9,144 mm). In other than residential occupancies, means of egress, including exterior means of egress, stairways shall be illuminated at all times the building space served by the means of egress is occupied with a minimum of 1 footcandle (11 lux) at floors, landings and treads, provided, however, that during Sea turtle nesting season (May 1 through October 31), the provisions of Chapter 14, Article II of the Fort Myers Beach Land Development Code shall supersede the foregoing requirements.

(ff) *Section 507 Storm Drainage*, is hereby amended to read as follows:

Drainage of roofs and paved areas, yards and courts, and other open areas on the premises shall not be discharged in a manner that creates a public nuisance. Point sources of stormwater discharge from private property directly onto the beach are prohibited. This prohibition includes drainage collected from parking lots or other paved surfaces and stormwater from roofs of buildings.

(gg) A new *Section 602.7* is hereby added as follows:

Section 602.7 Screening of Mechanical Equipment. Any new mechanical equipment placed on a roof shall be screened from view from ground level of adjoining properties and public rights-of-way. When mechanical equipment is being replaced on a roof of a building that is not undergoing structural alterations, such equipment shall be screened to the same standard using non-structural materials such as ornamental latticework.

(hh) *Section 701.1 Scope*, is hereby amended to read as follows:

The provisions of this chapter shall govern the minimum conditions and standards for fire safety relating to structures and exterior premises, including fire safety facilities and equipment to be provided. All references to the "International Fire Code" in this Chapter 7 shall be replaced with the "Florida Fire Prevention Code."

(Ord. No. 13-01, § 2, 1-22-2013; Ord. No. 21-01, § 2(Exh. A), 3-15-2021)

Property Address and Owner:

Hearing Date: October 1, 2025

Property Owner: Lemos Unlimited LLC
Property Address: 6875 Estero Blvd
Status: Non-Compliant Structure

Subject:

Code Section:

Reference Number:

Strap Number:

Officer:

T. Yozzo

Narrative:

Attachments:

1. 20250655_Hearing Exhibit A_Notice of Hearing and Affidavit of Posting
2. 20250655_Hearing Exhibit B_FEMA and Related Ordinances
3. 20250655_Hearing Exhibit C_Notice of Violation
4. 20250655_Hearing Exhibit D_Violated Regulations

Town Recommendations:

Town Approvals:

Thomas Yozzo, Emergency Services Director

Date: September 23, 2025



Traci Kohler, Deputy Town Manager

Date: September 23, 2025

nancy stuparich, Town Attorney

Date: September 23, 2025

Lizzette Roman, Town Clerk Administrative Coordinator

Date: September 24, 2025

Amy Baker, Town Clerk

Date: September 24, 2025

HEARING

EXHIBIT

A

- Notice of Hearing and Affidavit of Posting



9/5/2025

TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

LEMOS UNLIMITED LLC
6875 ESTERO BLVD
FORT MYERS BEACH, FL 33931

Respondent.

Case Number:	20250655
Certified Mail:	9589071052703142135057
Regular Mail:	Standard 1 st Class

Site Address: 6875 ESTERO BLVD Fort Myers Beach, FL 33931
Parcel Strap No.: 03-47-24-W1-00002.0020

NOTICE OF CODE ENFORCEMENT HEARING

YOU ARE HEREBY NOTIFIED that, pursuant to Chapter 162, Florida Statutes and Chapter 2, Article V of the Town of Fort Myers Beach Land Development Code, the undersigned Code Enforcement Officer has documented that (an) uncorrected violation(s) of one or more codes of the Town of Fort Myers Beach, as described in the **NOTICE OF VIOLATION**, previously provided to you (another copy of which is enclosed herewith), exists on the above described property. A hearing before the Town's Code Enforcement Special Magistrate concerning the violation(s) has, therefore, been scheduled for **WEDNESDAY 10-01-2025 at 9:00 A.M.** at Fort Myers Beach Town Hall, located at 6231 Estero Blvd., Fort Myers Beach, Florida 33931.

A copy of the evidentiary case file and all materials provided by the Town Code Enforcement Unit to the Special Magistrate in relation to this hearing can be viewed and accessed in advance of the hearing at the link below:

<http://www.fortmyersbeachfl.gov/209/Meetings-Agendas>

NO ADDITIONAL NOTICE OF THE HEARING WILL BE PROVIDED TO YOU. If you fail to attend this hearing, the Code Enforcement Special Magistrate will consider the case, even though you are not

FORT MYERS BEACH, ESTERO ISLAND

P. 239-765-0202 | F. 239-765-0909 | 2731 Oak Street, Fort Myers Beach, FL 33931

(Last 06/2024)



present, and may assess fines or take other actions that will affect your rights. If you believe you have come into compliance, it is your responsibility to contact the Code Enforcement Division so that an inspection can be carried out to determine compliance.

Please be aware that under Florida Statutes Chapter 162 and Town of Fort Myers Beach Land Development Code Section 2-427(b) a fine of up to \$250.00 per day for the first violation or \$500.00 per day for a repeat violation may be imposed for each day the violation continues or is repeated. If the Special Magistrate finds that a violation is irreparable or irreversible in nature, a fine of up to \$5,000.00 per violation may be imposed. The Special Magistrate may also assess the costs of prosecution of the case against you and you may be required to pay those fees, even if the violation(s) has been corrected or abated prior to the hearing.

Thomas Yozzo

Code Enforcement Officer
Town of Fort Myers Beach

NOTE: IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. PLEASE NOTIFY THE TOWN CLERK FOR THE TOWN OF FORT MYERS BEACH, 6231 ESTERO BLVD. FORT MYERS BEACH, FL 33931; TELEPHONE NUMBER (239) 765-0202, AT LEAST 72 BUSINESS HOURS BEFORE THE HEARING DATE.

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE SPECIAL MAGISTRATE WITH RESPECT TO ANY MATTER CONSIDERED AT HEARING, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND, FOR SUCH PURPOSE MAY NEED TO ENSURE AT THEIR OWN EXPENSE FOR THE TAKING AND PREPARATION OF A VERBATIM RECORD OF ALL TESTIMONY AND EVIDENCE BY A COURT REPORTER UPON WHICH THE APPEAL IS TO BE BASED

FORT MYERS BEACH, ESTERO ISLAND

P. 239-765-0202 | F. 239-765-0909 | 2731 Oak Street, Fort Myers Beach, FL 33931



TOWN OF FORT MYERS BEACH,
Petitioner,

vs.

LEMOS UNLIMITED LLC
7205 Estero Blvd
Fort Myers Beach, FL 33931

FMB Case Number:	20250655
Certified Mail:	70222410000084701730 70222410000084701723
Regular Mail:	Standard 1st Class
Magistrate Case Number:	Not Assigned

Site Address: 6875 Estero Blvd
Fort Myers Beach, FL 33931
Parcel Strap No. 034724W1000020020

Respondent,

AFFIDAVIT OF NOTICE AND POSTING

STATE OF FLORIDA
COUNTY OF LEE

BEFORE ME, the undersigned authority, personally appeared Thomas Yozzo, who is the Emergency Services Director for the Town of Fort Myers Beach, who was sworn and under oath, deposes and says the following regarding case #20250655 that certain Special Magistrate Code Hearing. Presented as Hearing Exhibit A ("The Notice")

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | 2731 Oak Street, Fort Myers Beach, FL 33931



I personally mailed by certified mail & first-class service a copy of the Notice of Hearing to the following:

- a. Lemos Unlimited LLC
7205 Estero Blvd
Fort Myers, FL 33931
Certified Mail No. 70222410000084701723
(Listed Leepa.org / Lee County Tax Collector Property Owner Address)
- b. Lemos Unlimited LLC
6875 Estero Blvd
Fort Myers Beach, FL 33931
Certified Mail No. 70222410000084701730
(Alternative Listed Mailing Address)
- c. Ruby Pessotti
6875 Estero Blvd
Fort Myers, FL 33931
Certified Mail No. 9589071052703142135255
(Registered Agent for Company)

Copies of the certified mailing receipts are attached in Hearing Exhibit A.

1. I posted a copy of the Notice at 6875 Estero Blvd, Fort Myers Beach, FL 33931, which is the subject property. I took photographs of the Notice I posted on the 5th day of September 2025. A true, accurate and unaltered copy of the photographs are attached in Hearing Exhibit A.
2. I posted a copy of the Notice at the primary municipal government office for the Town of Fort Myers Beach, which is Town Hall and located at 6231 Estero Blvd, Fort Myers Beach, FL 33931. True, accurate and unaltered copies of photographs I took of the Notice posted on the 12th day of September 2025 are attached in Hearing Exhibit A.



3. In addition, I posted a copy of the Notice on the Town's publicly accessible website at <https://www.fortmyersbeachfl.gov/1294/Public-Notices> on the 5th day of September 2025. A copy of the posted webpage is attached as Evidence in Hearing Exhibit A.

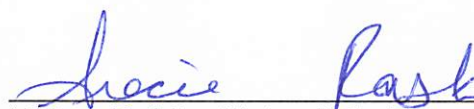
Under penalties of perjury, I declare that I have read the foregoing affidavit and that the facts stated in it are true and to the best of my knowledge and belief comply with Section 2-429 of the Town Land Development Code and Section 162.12, Florida Statutes.

x 
Signature of Affiant

**STATE OF FLORIDA
COUNTY OF LEE**

The foregoing instrument was sworn to, subscribed and acknowledged before me by means of either ☒ personal presence or ☐ online notarization this 5 day of September, 2025, by T Yozzo. They ☒ are personally known to me or ☐ has produced _____ as identification.




Notary Public, State of Florida
Print Name: Tracie Raskl
My Commission Expires: 2/3/2029

9589 0710 5270 3142 1352 55

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☐ Adult Signature Required \$
☐ Adult Signature Restricted Delivery \$

Postage \$
 Total Postage and Fees \$

Town of Fort Myers Beach
 Sent by: ME SEP 08 2025
 Postmark Here

6875 Estero Blvd
 (928) 202-0655

PESSOTTI, RUBY
6875 ESTERO BLVD
FORT MYERS BEACH, FL 33931

PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions

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☐ Return Receipt (electronic) \$
☐ Certified Mail Restricted Delivery \$
☐ Adult Signature Required \$
☐ Adult Signature Restricted Delivery \$

Postage \$
 Total Postage and Fees \$

Town of Fort Myers Beach
 Sent by: ME SEP 08 2025
 Postmark Here

6875 Estero Blvd
 (928) 202-0655

LEMONS UNLIMITED LLC
6875 ESTERO BLVD
FORT MYERS BEACH, FL 33931

PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions

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☐ Return Receipt (hardcopy) \$
☐ Return Receipt (electronic) \$
☐ Certified Mail Restricted Delivery \$
☐ Adult Signature Required \$
☐ Adult Signature Restricted Delivery \$

Postage \$
 Total Postage and Fees \$

Town of Fort Myers Beach
 Sent by: ME SEP 08 2025
 Postmark Here

6875 Estero Blvd
 (928) 202-0655

LEMONS UNLIMITED LLC
7205 ESTERO BLVD STE 702
FORT MYERS BEACH, FL 33931

PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions



FMBgov.com

Das Alters, Mayor | Jim Attenholt, Vice Mayor | John R. King, Council Member | Scott Safford, Council Member | Karen Woodson, Council Member

9/5/2025

TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

LEMONS UNLIMITED LLC
6875 ESTERO BLVD
FORT MYERS BEACH, FL 33931

Respondent.

Site Address: 6875 ESTERO BLVD Fort Myers Beach, FL 33931
Parcel Strap No.: 03-47-24-W1-00002.0020

NOTICE OF CODE ENFORCEMENT HEARING

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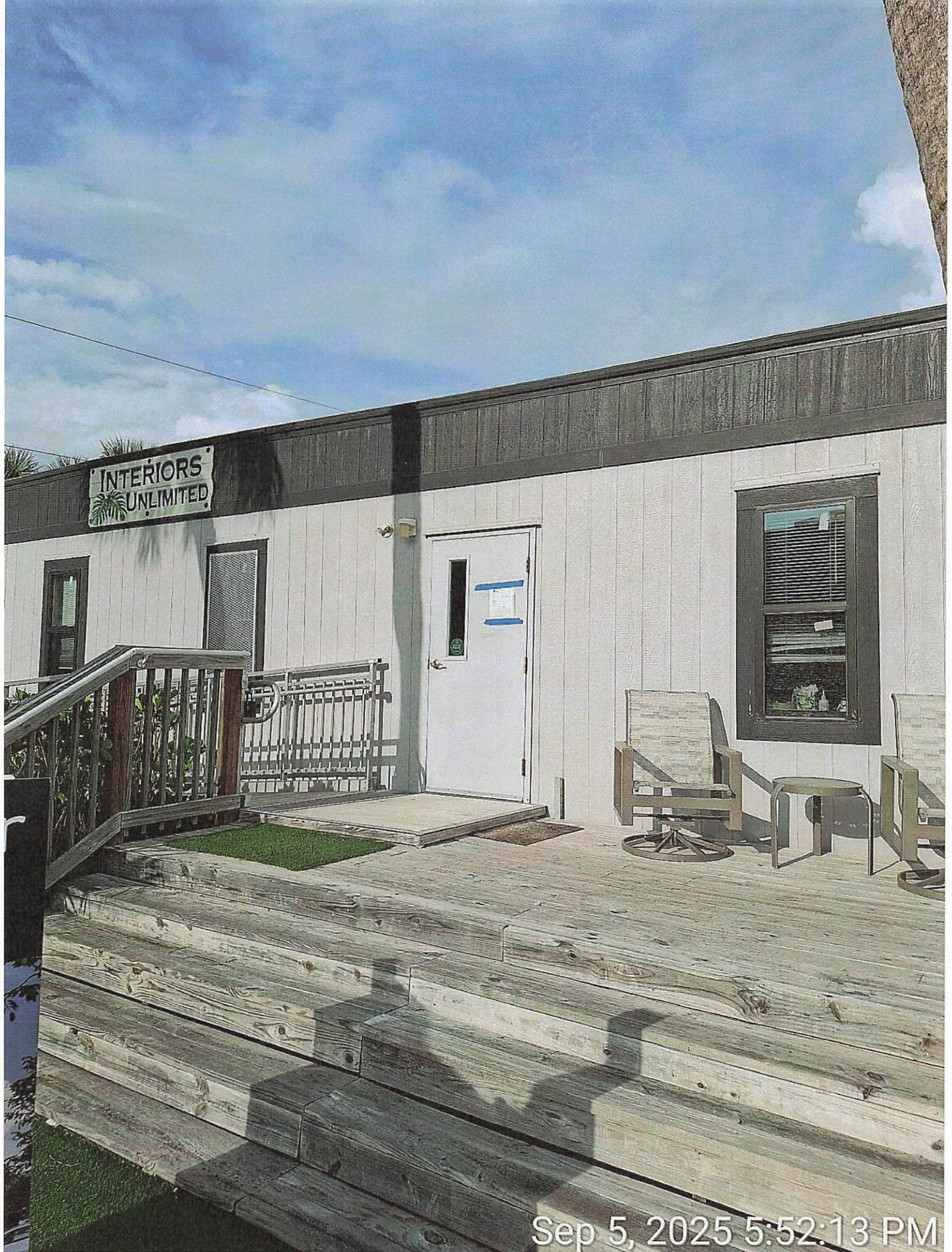
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Staples

Sep 5, 2025 5:52:03 PM



Sep 5, 2025 5:52:13 PM



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

FMB

9/5/2025

TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

LEMOS UNLIMITED LLC
6875 ESTERO BLVD
FORT MYERS BEACH, FL 33931

Respondent.

Case Number:	20250655
Certified Mail:	958907105270314
Regular Mail:	Standard 1 st Class

Site Address: 6875 ESTERO BLVD Fort Myers Beach, FL 33931
Parcel Strap No.: 03-47-24-W1-00002.0020

NOTICE OF CODE ENFORCEMENT HEARING

YOU ARE HEREBY NOTIFIED that, pursuant to Chapter 162, Florida Statutes and Chapter V of the Town of Fort Myers Beach Land Development Code, the undersigned Code Enforcement has documented that (an) uncorrected violation(s) of one or more codes of the Town of Fort Myers Beach as described in the **NOTICE OF VIOLATION**, previously provided to you (another copy of which is attached herewith), exists on the above described property. A hearing before the Town's Code Enforcement Magistrate concerning the violation(s) has, therefore, been scheduled for **WEDNESDAY 10-05-2025 9:00 A.M.** at Fort Myers Beach Town Hall, located at 6231 Estero Blvd., Fort Myers Beach, Florida.

A copy of the evidentiary case file and all materials provided by the Town Code Enforcement Magistrate to the Special Magistrate in relation to this hearing can be viewed and accessed in advance of the hearing at the link below:

<http://www.fortmyersbeachfl.gov/209/Meetings-Agendas>

NO ADDITIONAL NOTICE OF THE HEARING WILL BE PROVIDED TO YOU. If you fail to attend the hearing, the Code Enforcement Special Magistrate will consider the case, even though you are not present.

FORT MYERS BEACH, ESTERO ISLAND

P. 239-765-0202 | F. 239-765-0909 | 2731 Oak Street, Fort Myers Beach, FL 33931

Sep 12, 2025 12:51:28 PM



Property Data

STRAP: 03-47-24-W1-00002.0020 Folio ID: 10231711

Hurricanes Helene/Milton Tax Roll Value Letter Hurricane Ian Tax Roll Value Letter

Generated on 7/30/2025 7:29 AM

Owner Of Record - Sole Owner

[\[Change Mailing Address\]](#)

LEMOS UNLIMITED LLC
7205 ESTERO BLVD #702
FORT MYERS BEACH FL 33931

+ Site Address

Site Address maintained by [E911 Program Addressing](#)

6875 ESTERO BLVD
FORT MYERS BEACH FL 33931

Property Description

Do not use for legal documents!



BEG ON E R/W LI SR 865 300 FT S OF NLY LI GOVT LOT 1 TH S ALG ELY
R/W LI SD SR

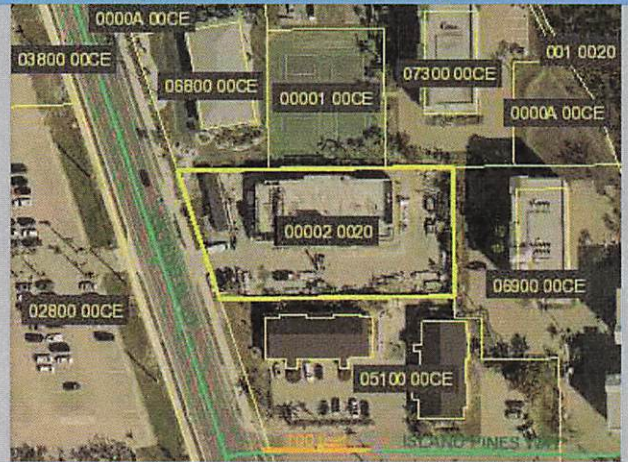
Attributes and Location Details

Total Bedrooms / Fixtures	0 / 9
Gross Building Area	7,460
1st Year Building on Tax Roll	1971
Historic Designation	No

Township	Range	Section	Block	Lot
47	24E	03		
Municipality	Latitude	Longitude		
Town of Fort Myers Beach	26.41778	-81.90131		

[View Parcel on Google Maps](#)

[Tax Map Viewer] [View Comparables]



[Pictometry Aerial Viewer]

Image of Structure

[◀ Photo Date April of 2025 ▶](#) ☐ View other photos

Last Inspection Date: 04/03/2025



Property Values / Exemptions / TRIM Notices

Generated on 7/30/2025 7:29 AM



Property Details (Current as of 7/29/2025)

Generated on 7/30/2025 7:29 AM



Property Details (2024 Tax Roll)



Generated on 7/30/2025 7:29 AM



Taxing Authorities

Generated on 7/30/2025 7:29 AM



Sales / Transactions ⓘ

Generated on 7/30/2025 7:29 AM



Building / Construction Permit Data

Generated on 7/30/2025 7:29 AM



Parcel Numbering History ⓘ

Generated on 7/30/2025 7:29 AM



Solid Waste (Garbage) Roll Data

Generated on 7/30/2025 7:29 AM



Flood and Storm Information

Generated on 7/30/2025 7:29 AM

Generated on 7/30/2025 7:29 AM

[Previous Parcel Number](#) [Next Parcel Number](#) [New Query](#) [Search Results](#) [Home](#)



[Department of State](#) / [Division of Corporations](#) / [Search Records](#) / [Search by Entity Name](#) /

Detail by Entity Name

Florida Limited Liability Company

LEMOS UNLIMITED LLC

Filing Information

Document Number L21000367617

FEI/EIN Number 87-2214791

Date Filed 08/16/2021

Effective Date 08/16/2021

State FL

Status ACTIVE

Principal Address

6875 Estero Blvd
FORT MYERS BEACH, FL 33931

Changed: 03/10/2023

Mailing Address

6875 Estero Blvd
FORT MYERS BEACH, FL 33931

Changed: 03/10/2023

Registered Agent Name & Address

PESSOTTI, RUBY
6875 ESTERO BLVD
FORT MYERS BEACH, FL 33931

Name Changed: 02/09/2024

Address Changed: 02/09/2024

Authorized Person(s) Detail

Name & Address

Title AMBR

PESSOTTI, CAIO A
6875 Estero Blvd
FORT MYERS BEACH, FL 33931

Title AMBR

PESSOTTI, RUBY C
6875 Estero Blvd
FORT MYERS BEACH, FL 33931

Annual Reports

Report Year	Filed Date
2023	03/10/2023
2024	02/09/2024
2025	02/28/2025

Document Images

02/28/2025 -- ANNUAL REPORT	View image in PDF format
02/09/2024 -- ANNUAL REPORT	View image in PDF format
03/10/2023 -- ANNUAL REPORT	View image in PDF format
02/03/2022 -- ANNUAL REPORT	View image in PDF format
08/16/2021 -- Florida Limited Liability	View image in PDF format



Lee County Tax Collector

Noelle Branning

Account Number:
24-46-23-01-00009.0320
Alternate Key:
2100454077
Millage Code:
078

Site Address/Legal Description:
815 BUTTONWOOD DR
SAN CARLOS ON THE GULF BLK 9 PB 6 PG 6 LOT
32



SCAN
THIS CODE
to pay online
or visit
LeeTC.com/pay-online

2024 Real Estate Tax Notice

Ad Valorem Taxes and Non-Ad Valorem Assessments for Lee County, Florida

Exemptions/Values
Market Value 235,445
Assessed Value 235,445
Taxable Value 235,445

★ See message below.

LEMOS UNLIMITED LLC
6875 ESTERO BLVD
FORT MYERS BEACH, FL 33931

Paid 11/06/2024 INT-00-02726927 \$3,095.73

Ad Valorem Taxes Levying Authority

	Telephone	Mill Rate	Assessed	Exemption	Taxable	Amount
LEE COUNTY GENERAL REVENUE	239-533-2221	3.7623	235,445	0	235,445	885.81
PUBLIC SCHOOL - BY LOCAL BOARD	239-337-8215	2.2480	235,445	0	235,445	529.28
PUBLIC SCHOOL - BY STATE LAW	239-337-8215	3.0380	235,445	0	235,445	715.28
LEE COUNTY ALL HAZARDS - MSTU	239-533-2221	0.0693	235,445	0	235,445	16.32
LEE COUNTY UNINCORPORATED - MSTU	239-533-2221	0.8398	235,445	0	235,445	197.73
SAN CARLOS ISLAND LIGHTING UNIT MSTU	239-533-2308	0.1050	235,445	0	235,445	24.72
SFL WATER MGMT-DISTRICT LEVY	561-686-8800	0.0948	235,445	0	235,445	22.32
SFL WATER MGMT-EVERGLADE CONST	561-686-8800	0.0327	235,445	0	235,445	7.70
SFL WATER MGMT-OKEECHOBEE LEVY	561-686-8800	0.1026	235,445	0	235,445	24.16
FORT MYERS BEACH FIRE CONTROL DISTRICT	239-590-4200	2.8000	235,445	0	235,445	659.25
FORT MYERS BEACH MOSQUITO	239-247-1205	0.1123	235,445	0	235,445	26.44
FORT MYERS BEACH LIBRARY	239-463-9691	0.1612	235,445	0	235,445	37.95
LEE COUNTY HYACINTH CONTROL	239-694-2174	0.0200	235,445	0	235,445	4.71
WEST COAST INLAND NAVIGATION DISTRICT	941-485-9402	0.0394	235,445	0	235,445	9.28

Non-Ad Valorem Assessments Levying Authority

	Telephone	Rate	Basis	Amount
LEE COUNTY SOLID WASTE ASSESSMENT	239-533-8000		ACTL LEVY	63.77

2024 Combined Total Ad Valorem and Non-Ad Valorem:

\$3,224.72

2024 Real Estate Tax Notice

PAY ONLY ONE AMOUNT

If Received By:

- ☐ Nov 30, 2024
☐
☐
☐
☐

Amount Due:

\$0.00

Phone/Email Contact: _____

For payment options and instructions, refer to the back of this notice.

Account: 24-46-23-01-00009.0320

Site Address: 815 BUTTONWOOD DR

Alternate Key: 2100454077

★ If the address below is not correct, visit LeePA.org to update your address.

LEMOS UNLIMITED LLC
6875 ESTERO BLVD
FORT MYERS BEACH, FL 33931

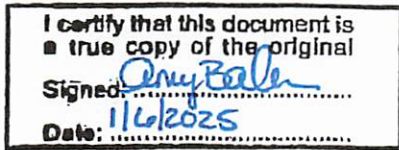
Make check payable to:
LEE COUNTY TAX COLLECTOR
PO BOX 1609
FORT MYERS, FL 33902-1609



Paid 11/06/2024 INT-00-02726927 \$3,095.73

Hearing Exhibit B

FEMA and Related Ordinances



U. S. Department of Homeland Security
Region 4
3005 Chamblee Tucker Road
Atlanta, GA 30341



FEMA

July 19, 2024

CERTIFIED MAIL RETURN RECEIPT REQUESTED

Andy Hyatt
Town Manager, Fort Myers Beach
2525 Estero Blvd
Fort Myers Beach, FL 33931

Re: National Flood Insurance Program Participation

Dear Mr. Hyatt:

I'd like to thank you and your staff for the long hours and hard work during the last two months to help correct the Town of Fort Myers Beach's compliance issues regarding the National Flood Insurance Program (NFIP). Our teams have made great progress in helping ensure Fort Myers Beach and their residents are more resilient and prepared for future storms.

Our team has completed its review of the town's compliance with the minimum floodplain management standards and everything that has been done to correct any deficiencies and violations.

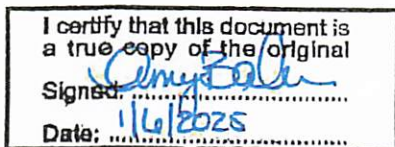
We acknowledge the work invested by your community has resulted in some improvements to meet minimum floodplain management standards. However, as the Town of Fort Myers Beach continues to recover from Hurricane Ian, FEMA finds that outstanding compliance issues remain. FEMA will not retrograde the town's class rating at this time.

Although FEMA will not retrograde the Town of Fort Myers Beach's class rating at this time, if the violations are not corrected or remedied by Nov. 18, FEMA's regulations (Title 44 Code of Federal Regulations 59.24(b) Suspension of Community Eligibility) require us to place the town on probation. This letter starts the official notification process. In addition, the town would no longer be eligible for Community Rating System participation and would be retrograded to Class 10 effective on April 1, 2025.

This letter and its attachments include FEMA's findings and our proposed next steps for the Town of Fort Myers Beach to remedy outstanding deficiencies and violations. These deficiencies and violations are described in the attached documents, specifically refer to the Status Report. To avoid probation in 121 days, the Town of Fort Myers Beach must correct deficiencies and remedy all identified violations to the maximum extent possible by Nov. 18.

You have my commitment of support as you work through these issues with your team.

www.fema.gov



A careful review of the data you provided since April shows that the implementation of the floodplain management program has several deficiencies that remain out of compliance. During the 60-day review period, the Town of Fort Myers Beach submitted additional permitting information for 105 structures in the floodplain.

Here is a summary of some of the items that the Town of Fort Myers Beach needs to remedy:

- Lack of permits for development in the Special Flood Hazard Area.
- Lack of maintaining permit records for development, new construction, or substantial improvements.
- Failure to make substantial improvement (SI) and substantial damage (SD) ("SI/SD") determinations.

FEMA staff reviewed each of the submitted permit packages and learned:

- 31% of the permit packages were complete.
- 20% need additional information.
- 2% needed a Community Assistance Visit follow up.
- 15% were ongoing in a Code Enforcement Case.
- 32% will be followed up on during a Future Compliance Engagement.

FEMA also found:

- 51 out of the 105 permit packages submitted did not include permits for structures that sustained documented damage.
- 76 of the 105 were missing itemized/detailed cost information for repair performed.
- 62 of the 105 had individual permits issued without total repair costs.

To avoid probation, the Town of Fort Myers Beach must complete the following items by close of business on Nov. 18. We encourage regular communication to share updates on your progress.

The town must remedy the following identified deficiencies:

1. Within 60 days of the date of this correspondence, September 16, 2024, develop and submit a plan that includes timelines and actions to address all identified program deficiencies and violations to the maximum extent possible.
2. Assess all floodplain development from Hurricane Ian in the Special Flood Hazard Area, ensuring that permits for all repairs, construction and development were obtained consistent with local floodplain management regulations:
 - a. From FEMA's April 8, 2024 letter:
 - i. Provide a status update for structures deemed Substantially Damaged on the list provided by the Town of Fort Myers Beach in accordance with the April 11, 2024, letter sent to the FEMA Region 4 Administrator.
 - ii. Provide evidence to support compliance action taken for the structures identified as having damage and FEMA identified as Future Compliance Engagement, Community Assistance Visit follow up, and additional information needed.

I certify that this document is
a true copy of the original

Signed: 

Date: 11/6/2025

- b. In addition to the above, provide an assessment of all floodplain development impacts from Hurricane Ian to structures in the Special Flood Hazard Area and provide a plan for remedying any identified violations.
3. Provide documentation that demonstrates your community is leveraging its code enforcement process to address new and existing code cases for all structures not confirmed as compliant. When a violation is confirmed, remedy to maximum extent possible. This includes:
 - a. In Item 2 above, structures identified during the evaluation as a Code Enforcement Case
 - b. Structures identified when assessing the Special Flood Hazard Area for all Hurricane Ian impacts to structures.
4. Put a process in place to ensure substantial damage compliance for future events.

You have my commitment to continue to support you and your team as you take the necessary compliance measures to avoid probation and possible suspension from the National Flood Insurance Program.

If you have any questions or at any time need technical assistance to address these issues, please contact FEMA Region 4 Office, Jacky Bell, Mitigation Division Director, at jacky.bell@fema.dhs.gov or 404-273-4710.

Sincerely,

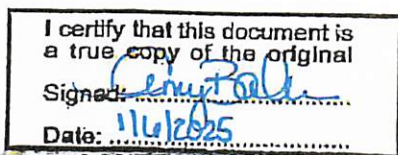


Robert D. Samaan
Regional Administrator

Attachments:

- Community Status Report
- Criteria for Avoiding Probation

cc: Kristin Schumacher, Floodplain Administrator
Jason Hunter, Region Floodplain Management & Insurance Branch Chief
Jillian Kraynak, Florida NFIP State Coordinator
Office of Sen. Marco Rubio
Office of Sen. Rick Scott
Office of Rep. Byron Donalds
Office of Rep. Greg Steube



FEMA

Town of Fort Myers Beach Post-Disaster Compliance Status Update Report

FEMA remains committed to helping communities take appropriate remediation actions to remain in good standing with the National Flood Insurance Program (NFIP) and participate in the Community Rating System (CRS).

The Town of Fort Myers Beach was granted 60 days (June 10, 2024), to submit to FEMA any new information related to the deficiencies and substantive violations detailed in FEMA's April 8, 2024 Findings Report. The April 8, 2024 Findings Report supported an initial decision by FEMA to retrograde the Town of Fort Myers Beach to a CRS class 10 community. In the Findings Report, FEMA also found program deficiencies and violations within the Town of Fort Myers Beach, which will serve as a basis for the current enforcement action and needed remediation.

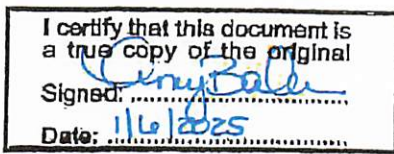
During the 60-day review period, the Town of Fort Myers Beach provided FEMA permit documentation for 105 sites. FEMA reviewed the submitted documentation, for the 105 sites as well as the Town of Fort Myers Beach's Narrative and supporting documentation.

After careful review of Town of Fort Myers Beach's submittal, FEMA finds that program deficiencies and substantive violations remain. Unfortunately, due to the deficiencies, the Town of Fort Myers Beach is being notified that they have until November 18, 2024 to address these deficiencies, or the Town will be placed on probation from the NFIP:

LIST OF PROGRAM DEFICIENCIES

Program Deficiencies are a defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of floodplain management regulations of the standards in 44 CFR 60.3; 60.4; 60.6; and NFIP Community Compliance Program Guidance, P-1022 (July 2016) in section 3.2.

- Failure of the community's "commitment to recognize and duly evaluate flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards in all official actions in the areas having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards and to take such other official action reasonably necessary to carry out the objectives of the program;" 44 CFR 59.22(8) and LDC CH 6, Art IV, Div 1, Sec 6-403(8).
- Failure to require permits for all proposed construction and development in the SFHA. 44 CFR 60.3(b)(1); 44 CFR 60.3(c)(1); 44 CFR 60.3(e)(1); FBC R101.2.1; FBC EB701.3; FBC 105.1; LDC CH 6, Art IV, Div 3, Sec 6-427; and LDC CH 6, Art IV, Div 6, Sec 6-461.
- Failure to maintain permit records for development, new construction, or substantial improvements in the SFHA. 44 CFR 59.22(a)(9)(iii); 44 CFR 60.3(b)(5)(iii); and 44 CFR 60.3(e)(2)(ii).
- Failure to make substantial improvement (SI) and substantial damage (SD) ("SI/SD") determinations and calculations for all proposed construction and development in the SFHA. 44 CFR 60.3(b)(1); 44 CFR 60.3(c)(1); 44 CFR 60.3(e)(1); LDC CH 6, Art IV, Div 3, Sec 6.428(1); and FEMA Substantial Improvement / Substantial Damage Desk Reference, P-758 (May 2010) ("SI/SD Desk Reference") in section 5.2.



- ✓ Failure to maintain SI/SD determination records for all proposed construction and development in the SFHA. 44 CFR 59.22(a)(9)(iii); 44 CFR 60.3(b)(5)(iii); 44 CFR 60.3(e)(2)(ii); and SI/SD Desk Reference in sections 4.2 and 7.7.
- ✓ Failure to keep records of permits, certifications, and variance actions. 44 CFR 59.22(a)(9)(iii).
- ✓ Failure to establish SI/SD procedures for administering and documenting determinations of SI/SD. LDC CH6, Art IV, Div 3, Sec 6.428(1) and FEMA Substantial Improvement / Substantial Damage Desk Reference, P-758 (May 2010) ("SI/SD Desk Reference") in sections 4.1, 4.3, & 7.1.
- ✓ Failure in permitting system, which allowed the use of "temporary" non-compliant structures (including shipping container and trailers/food trucks). LDC CH 6, Art IV, Div, 4, Sec 6.443 (3)&(4), LDC CH 6, Art IV, Div 6, and LDC CH 6, Art IV, Div 6, Sec 6.462, Sec 6.463, and LDC CH 6, Art IV Div 10, Sec 6-501.

1. Program deficiencies

Serious program deficiencies in a community's administrative and enforcement process and procedures are those that have resulted or could result in substantive violations that increase potential flood damages or stages in the community. The following deficiencies represent gaps in the Town's administrative process that restrict the ability to meet the minimum standards for participation.

Permitting of non-compliant structures/shipping containers/

Inconsistent Market Value	Missing Repair Permits (Known Damage (IA/Insurance))	Missing Detailed Cost Info	Low & Inadequate Labor Costs	Permits Issued Without Total Repair Costs	Failed To Capture Complete Scope of Work	After the Fact Permits	After the Fact Notice of Violation
1	51	76	8	62	65	16	25

2. List of properties determined to be substantially damaged:

The Town of Fort Myers Beach has submitted to FEMA a list of properties that Town of Fort Myers Beach deemed substantially damaged since the disaster; there were 356 structures listed. What actions has the Town taken or plan to take to follow-up on those structures? Please provide FEMA with a status of each structure to indicate how substantial damage is being addressed.

3. Non-compliant development

- a. Non-compliant structures (containers) and temporary structures have been placed in the Coastal High Hazard Area (VE zone and coastal A zone). Please provide a plan to remove the structures or bring the non-compliant structures or non-compliant additions into compliance; and confirmation that the town has stopped issuing permits for this type of non-compliant development.

b.

I certify that this document is a true copy of the original

Signed: Cheryl Baker

Date: 11/6/2023



4. Data Dictionary (revised) – “Status” Column Meanings:

Additional Information Needed – Permit package needs additional information to be considered complete.

CAV Follow-Up – Not a Hurricane Ian issue but found a need for additional information during the next compliance follow-up with the community.

Code Enforcement Case - Community is currently processing as a code enforcement case and FEMA will accept and review case updates, follow-up permit information, and/or enforcement actions occurring prior to June 10, 2024. Actions occurring beyond that time will require future compliance engagement.

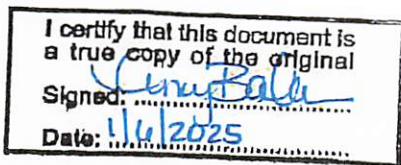
Complete – FEMA needs no further information regarding the specific address.

Future Compliance Engagement – Ian related activity. FEMA will follow-up on this site during the next compliance follow-up with the community.

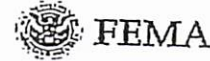
5. Documentation on the Finding Report and Site list:

Attached to this document is a list of structures within the SFHA with violations, including the type of violation, status, and needed documentation.

Final Status (as of June 28, 2024)	Count
Additional Information Needed	21
CAV Follow-Up	2
Code Enforcement Case	16
Complete	32
Future Compliance Engagement	34
Grand Total	105



U.S. Department of Homeland Security
Washington, DC 20528



National Flood Insurance Program

Privacy Act Notice

RE: Town of Fort Myers Beach, FL, National Flood Insurance Program Data from the Federal Emergency Management Agency (FEMA)

The Town of Fort Myers Beach, FL is receiving data from the Federal Emergency Management Agency's that is maintained in support of the National Flood Insurance Program (NFIP). Specifically, the Town of Fort Myers Beach, FL is receiving property addresses identified by FEMA as possible violations to the local floodplain management laws and regulations. The community shall use the data to verify, monitor, and resolve the possible violation. As an NFIP participating community, this information will assist the community to ensure compliance with the NFIP and maintain the availability of flood insurance. FEMA will send the information to you securely via email on a password-protected spreadsheet or pdf.

FEMA discloses this to you pursuant to the "routine use" provision of the Privacy Act of 1974, 5 U.S.C. § 552a(b)(3), specifically under Routine Uses G, I, M, N, O, R and T of the System of Records Notice (SORN), DHS/FEMA-003 - National Flood Insurance Program Files 79 FR 28747 (May 19, 2014). The SORN may be electronically viewed at <https://www.gpo.gov/fdsys/pkg/FR-2014-05-19/html/2014-11386.htm>.

The Town of Fort Myers Beach, FL does not have permission to release the provided information to third parties, including third party contractors and will only use the data for the stated purpose. Unauthorized disclosure of FEMA data will result in an immediate denial of access to the FEMA data. Pursuant to the Privacy Act, 5 U.S.C. § 552a(e)(10), please destroy or return said personally identifiable information (PII) to FEMA once you no longer have use for it. PII is information that can be used to identify, by itself, or in combination, individuals by direct or indirect means.

In the event of a privacy incident resulting from this sharing of FEMA PII, Town of Fort Myers Beach, FL shall immediately, but in no event later than twenty-four (24) hours from suspicion, discovery or notification of the suspected or confirmed privacy incident, notify the FEMA Privacy Officer at (202) 212-5100 or FEMA-Privacy@fema.dhs.gov. FEMA will investigate the incident pursuant to DHS standard procedures and will consult the Town of Fort Myers Beach, FL to diagnose, mitigate and manage the privacy incident. The Town of Fort Myers Beach, FL will be responsible for carrying out all necessary measures to remedy the effects of the privacy incident.

By accepting the FEMA data, the Town of Fort Myers Beach, FL agrees that it shall bear all costs, losses and damages to the extent resulting from the City's breach of FEMA data. The Town of Fort Myers Beach, FL further agrees to release, defend, indemnify, and hold FEMA harmless for claims, losses, penalties and damages, and reasonable attorneys' fees and costs to the extent arising out of the Town of Fort Myers Beach, FL or its contractor's, negligence, unauthorized use or disclosure of FEMA PII and/or the Town of Fort Myers Beach, FL, or its contractor's, breach of its obligations under this sharing.

By accepting, receiving, downloading, or otherwise obtaining the routine use information or data discussed in this document, Town of Fort Myers Beach, FL understands, agrees, and accepts the terms of the use of the data as outlined in this document.

I certify that this document is
a true copy of the original

Signed: Crystal

Date: 11/6/2025

I certify that this document is
a true copy of the original

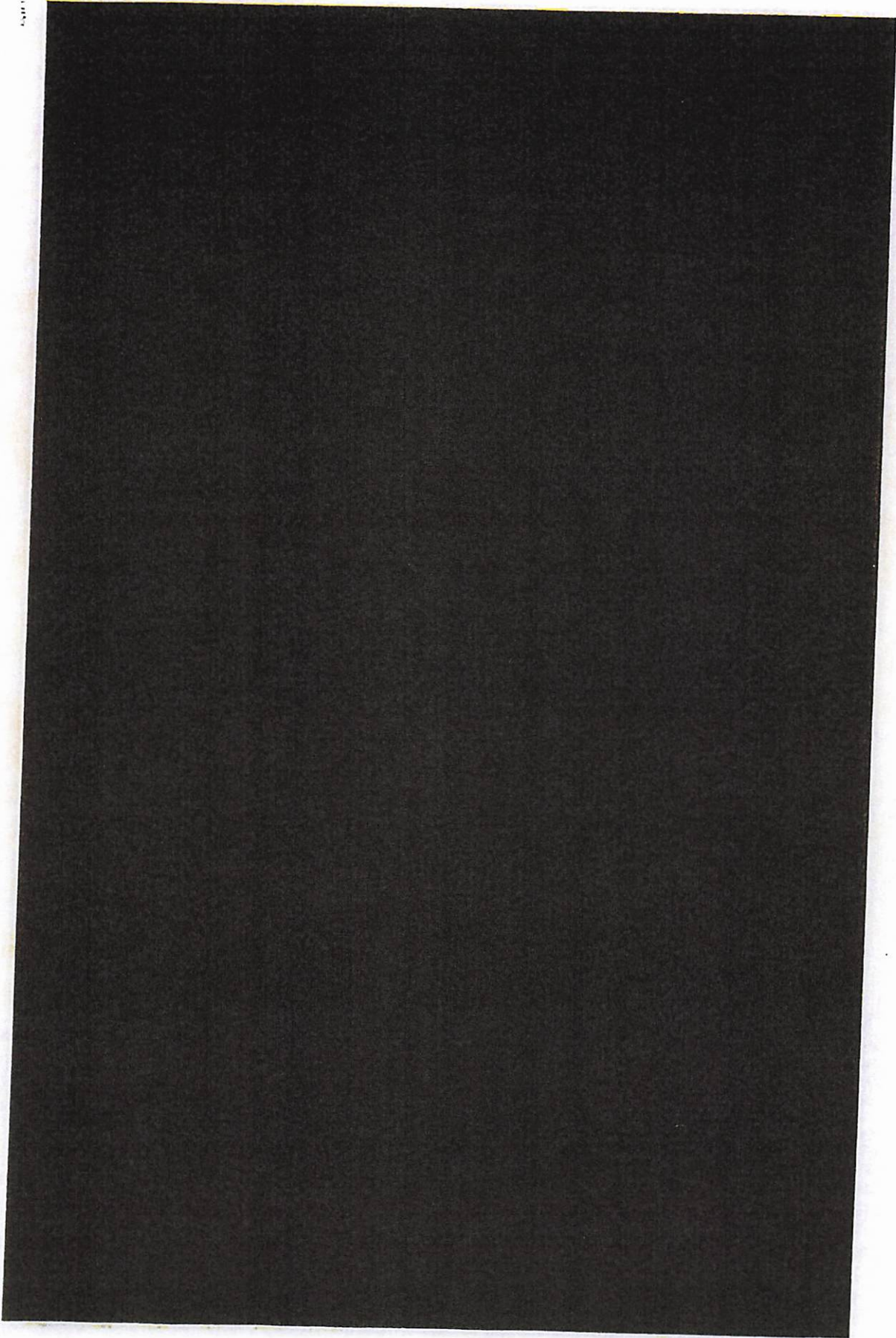
Signed: Cindy Baker

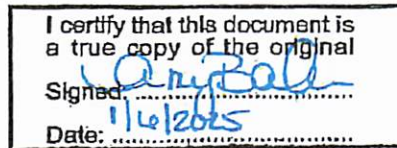
Date: 11/6/2025

I certify that this document is
a true copy of the original

Signed: Cebal

Date: 11/6/2025





FMBgov.com

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

VIA CERTIFIED U.S. MAIL AND ELECTRONIC MAIL

November 1, 2024

Federal Emergency Management Agency (FEMA)
U.S Department of Homeland Security
Region 4
3005 Chamblee Tucker Road
Atlanta, Georgia 30341

Attn: Robert D. Samaan
Regional Administrator
FEMA Region IV

RE: Removal of Shipping Containers and Temporary Structures
Town of Fort Myers Beach Post-Disaster Compliance Report

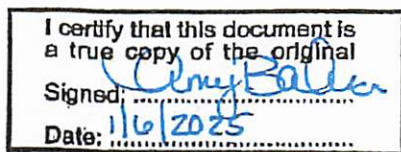
Dear Mr. Samaan,

The Town Council of the Town of Fort Myers Beach requested that we send this letter to you regarding the non-compliant structures (containers and temporary structures) in the Coastal High Hazard Area (VE zone and coastal A zone) referenced on page 2 of the Town of Fort Myers Beach Post-Disaster Compliance Status Update Report, dated July 19, 2024 ("Compliance Report"). The Compliance Report requires that the Town "provide a plan to remove the structures or bring the non-compliant structures or non-compliant additions into compliance" by November 18, 2024. The Town has been and continues to work diligently toward satisfying this requirement.

The most recent storms, Hurricanes Helene and Milton, have facilitated the removal of many of these containers and temporary structures. In fact, the recent removal of shipping containers and temporary structures as the impacts of these hurricanes threatened the Town, provided information regarding the ability to quickly disassemble

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | F. 239-765-0909 | 2731 Oak Street, Fort Myers Beach, FL 33931



and move shipping containers and temporary structures that was previously not available. For this reason, the Town Council gave direction to provide this information to you by letter.

More specifically, the owners of La Ola Surfside Restaurant, who use a 9'x 16' shipping container for a bar, were able to create a video demonstrating how quickly its shipping container could be disassembled and removed from its location on 1035 Estero Boulevard. The following is a link to the video, which has been widely circulated throughout the Fort Myers Beach Community.

https://drive.google.com/file/d/1vCBIleawpTJkXB1x877OIRInmTin2M8k9/view?usp=s_haring_cil&ts=67237f46

La Ola Surfside Restaurant, as well as other businesses that temporarily operate out of shipping containers or other temporary structure, are important to the Fort Myers Beach community's recovery efforts immediately after these storms and since Hurricane Ian by providing a means to fulfill a basic human need: food.

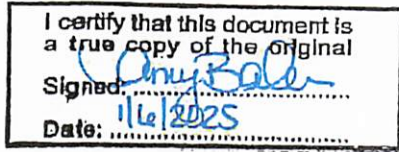
Moreover, as you are aware, the economy of a beach community such as Fort Myers Beach, is highly dependent on tourists, who visit the beach and support local businesses providing food service. In 2023-2024, the Town was awarded over \$1.5 million in tourist development dollars from the Lee County Tourist Development Board. These tourist dollars significantly assisted the Town with its recovery efforts post-Hurricane Ian and the delivery of municipal services to its residents.

In addition to tourists, the Town's economy is also highly dependent on its seasonal residents, who visit the Town from the fall through the end of spring each calendar year. Food service and other local businesses rely on the Town's seasonal residents as well as tourists to maintain operation during the winter season.

In view of the significant hardship on the operations of these businesses and the overall adverse economic impact on the Town, the Town is requesting your consideration to allow shipping containers and temporary structures, which are able to demonstrate that they can disassemble in a short period of time as evidenced in the La Ola Surfside Restaurant's video, to remain in place until June 1, 2025. An extension to June 1, 2025, would allow these local businesses to operate without interruption until the beginning of the next hurricane season.

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | F. 239-765-0909 | 2731 Oak Street, Fort Myers Beach, FL 33931



We appreciate your consideration of this request and look forward to discussing a limited extension of the November 18, 2024 deadline only for the removal of shipping containers and temporary structures, which can demonstrate the ability to quickly evacuate when a Hurricane Watch or Warning is issued to June 1, 2025. While this request is considered, the Town intends to continue its efforts achieve compliance with the November 18, 2024 deadline and removal of non-compliant shipping containers and temporary structures, such as La Ola Surfside Restaurant. Please do not hesitate to contact Frankie Kropacek, Operations & Compliance Director by phone at 239-955-3612 or by e-mail at fkropacek@fmbgov.com with any questions you may have. The Town looks forward to receiving a response to you regarding this request.

Sincerely,

Dan Allers, Mayor

Jim Atterholt, Vice Mayor

John R. King, Councilor

Karen Woodson, Councilor

Scott Safford, Councilor

Cc: Andrew Hyatt, Town Manager
Becky Vose, Town Attorney
Nancy Stuparich, Town Attorney
Amy Baker, Town Clerk
Frankie Kropacek, Operations & Compliance Director

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | F. 239-765-0909 | 2731 Oak Street, Fort Myers Beach, FL 33931

I certify that this document is
a true copy of the original

Signed:

Date:

Cathy Baker
11/6/2025

I certify that this document is
a true copy of the original
Signed: [Signature]
Date: 11/6/2025

U. S. Department of Homeland Security
Region 4
3005 Chamblee Tucker Road
Atlanta, GA 30341



FEMA

November 12, 2024

The Honorable Dan Allers
Mayor, Town of Fort Myers Beach
2731 Oak Street
Fort Myers Beach, FL 33931

Re: Removal of Shipping Containers and Temporary Structures Town of Fort Myers Beach Post
Disaster Compliance Report

Dear Mayor Allers:

I received the letter from the Fort Myers Beach Town Council requesting an extension for the removal of non-compliant shipping containers and temporary structures located in the Special Flood Hazard Area and Coastal High Hazard Area.

While I understand and appreciate the importance of these structures to the Town's economy and recovery, the Code of Federal Regulations that governs the National Flood Insurance Program defines the development in question as structures – not recreational vehicles. Because of this, the fact that the structures can be removed pre-event is not relevant as those conditions apply to recreational vehicles only. There are no regulations for temporary structures and occupancy which means all development in the Special Flood Hazard Area must meet the NFIP minimum standards and local floodplain management regulations. FEMA is not able to issue exemptions to the NFIP minimum standards nor extend the existence of non-compliant development.

The purpose of these regulations is to protect lives and property in the Special Flood Hazard Area. These non-compliant structures are in the most 'at risk' flood area, VE zone, also known as the Coastal High Hazard Area, which received a 14-foot storm surge during Hurricane Ian. Allowing these structures to remain in place presents a hazard to residents and businesses in the event of another storm as demonstrated by Hurricanes Helene and Milton. For these reasons I am unable to grant the Town's request to allow the structures in question to remain in place beyond the current deadline.

I certify that this document is a true copy of the original
Signed: <u>Jacky Bell</u>
Date: <u>11/6/2025</u>

You have my commitment to continue to support you and your team as you manage Hurricane Ian recovery and as you work to take the necessary compliance measures to avoid probation and possible suspension from the NFIP. If you have any questions or at any time need technical assistance to address these issues, please contact FEMA Region 4 Office, Jason Hunter, Floodplain Management and Insurance Branch chief, at Jason.hunter@fema.dhs.gov or 770-220-5471.

Sincerely,

Jacky S. Bell
Mitigation Division Director

cc: Kevin Guthrie, Executive Director, Florida Division of Emergency Management



FEMA

November 21, 2024

Andy Hyatt, Manager
Town of Fort Myers Beach
2731 Oak Street
Fort Myers Beach, FL 33931

Re: National Flood Insurance Program Participation

Dear Mr. Hyatt:

Once again, I'd like to thank you and your staff for the long hours and hard work during the last several months to correct the Town of Fort Myers Beach's issues regarding the National Flood Insurance Program (NFIP). Our teams have made great progress in helping ensure the city and their residents are more resilient and prepared for future storms.

On July 19, 2024, the Town received a letter from this office indicating the potential of being placed in probationary status with the NFIP if certain conditions were not met. These conditions consisted of five action items to be completed by November 18, 2024.

These action items were:

1. Develop and submit a plan that includes actions and timelines to address all identified program deficiencies and violations to the maximum extent possible.
2. Assess all floodplain development from Hurricane Ian in the Special Flood Hazard Area, ensuring that permits for all repairs, construction and development were obtained consistent with local floodplain management regulations.
3. Provide documentation that demonstrates your community is leveraging its code enforcement process to address new and existing code cases for all structures not confirmed as compliant.
4. Put a process in place to ensure substantial damage compliance for future events.
5. Remove noncompliant structures that were incorrectly permitted and should not have been placed in the Special Flood Hazard Area.

We appreciate that the Town of Fort Myers Beach accomplished the first and fourth action items by submitting a plan to address deficiencies and establishing a process to ensure substantial damage compliance for future events.

However, our teams have identified additional work that needs to occur for items 2, 3 and 5.

The crosswalk assessment tool created has not been completed by town officials which prevents both items 2 and 3 from being completed. For the 5th item, the town also did not remove non-compliant structures that were incorrectly permitted and should not have been placed in the Special Flood Hazard Area.

We acknowledge the work invested by you and your team has resulted in some improvements to meet minimum floodplain management standards. However, because of the outstanding compliance issues remaining, **the Town will be placed on probation with the National Flood Insurance Program effective November 18, 2024.**

During this probationary period, flood insurance coverage will remain available within the Town of Fort Myers Beach; however, a \$50 surcharge will be added to the premium of each new and renewed flood insurance policy sold within the community. Probation will remain in effect until all remaining program deficiencies and violations have been corrected to the maximum extent possible. Effective April 1, 2025, the town will be retrograded to a Class 10 in the Community Ratings System and policy premium discounts will not be applied to new or renewing policies. The Town is not eligible to reapply to the Community Rating System for a higher-class rating until the Town's probationary period is concluded, the Town is in full compliance with the minimum requirements of the National Flood Insurance Program, and at least two years has passed since the Town was placed in probationary status.

I am committed and I've instructed my staff that we will continue to provide technical assistance to Fort Myers Beach to meet the required program standards and potentially end probation as soon as practicable.

If you have any questions or at any time need technical assistance to address these issues, please contact FEMA Region 4 Office, Jacky Bell, Mitigation Division Director, at jacky.bell@fema.dhs.gov or 404-273-4710.

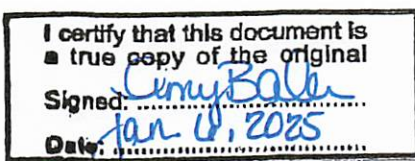
Sincerely,



Robert D. Samaan
Regional Administrator

cc:

Jason Hunter, Region Floodplain Management & Insurance Branch Chief
Jillian Kraynak, Florida NFIP State Coordinator



RESOLUTION NUMBER 24-296

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA ADOPTING A RESOLUTION TO REVOKE AND RESCIND EMERGENCY TEMPORARY PLACEMENT PERMITS AS PROVIDED AND AUTHORIZED IN SECTION 2 OF ORDINANCE 24-4 OF THE TOWN OF FORT MYERS BEACH, WHICH CLARIFIED ORDINANCE 23-05 RELATED TO TEMPORARY PLACEMENT PERMITS, IN FURTHERANCE AND IN SATISFACTION OF DIRECTION CONTAINED IN A LETTER DATED NOVEMBER 21, 2024 FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY ("FEMA") MANDATING REMOVAL OF NONCOMPLIANT STRUCTURES THAT WERE INCORRECTLY PERMITTED IN THE SPECIAL FLOOD HAZARD AREA, IN ORDER TO COMPLY WITH MINIMUM FLOODPLAIN STANDARDS AND THE REQUIREMENTS OF THE NATIONAL FLOOD INSURANCE PROGRAM; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article VIII, Section 2 of the State Constitution and Chapter 166 of the 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 services, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter empowers the Town Council to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, on September 28, 2022, Hurricane Ian made landfall north of the Town causing historical property damage and loss of life; and

WHEREAS, the Town Council recognized that recovery from a devastating natural disaster such as Hurricane Ian, created an immediate need for temporary housing, governmental services, and commercial uses for the Town's residents and adopted Ordinance 23-05 on May 15, 2023 to provide a temporary relief and the placement of certain structures in the Special Flood Hazard Area; and

WHEREAS, on May 6, 2024 the Town Council adopted Ordinance 24-04 amending and restating Ordinance 23-05 to clarify its intent at the time of adoption and to continue to provide temporary assistance to residents and to aid in the Town's redevelopment efforts by the emergency temporary placement of structures governmental, residential (manufactured homes, mobile homes, motor homes, recreational vehicles, or other temporary residential dwellings) or moveable commercial use; and

WHEREAS, both ordinances provided that permits issued under either Ordinance would be issued in increments of 6 months and would not exceed 18 months without demonstration of a hardship to the Town Manager; and

WHEREAS, Section 2 of Ordinance 24-04 further clarified that the Town Council intended permitted uses to be temporary in nature, and thereby subject to revocation and rescission at a future date under certain circumstances. More specifically, Paragraph 2 of Ordinance 24-04 identified several circumstances in which these temporary permitted uses required removal:

Unless otherwise provided in this Ordinance or in a Resolution that is adopted hereinafter 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 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. (Emphasis added).

WHEREAS, Section 2 of Ordinance 24-04(xi) also provided that the issued permit could be revoked for "noncompliance with applicable federal law/regulation, state law and town code"; and

WHEREAS, the number of outstanding temporary permits approved by the Town has decreased as a result of additional hurricanes impacting the Town subsequent to Hurricane Ian, the permitted rebuilding of destroyed properties; and the voluntary removal of the temporary permitted uses; and

WHEREAS, on July 19, 2024 and September 3, 2024, the Town was notified by the Federal Emergency Management Administration ("FEMA") that the Town would be placed on permanent probation from participation in the National Flood Insurance Program if it allowed structures needed for these temporary uses to continue subsequent to November 18, 2024 in the Special Flood Hazard Area; and

WHEREAS, Section 6-494 of the Town of Fort Myers Beach Land Development Code defines the Special Flood Hazard Area as "[a]n area in the floodplain subject to a one- percent or greater chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V. [Also defined in FBC, B Section 202.]", which in effect encompasses the entirety of the Town; and

WHEREAS, despite efforts by the Town Council to extend the November 18, 2024 FEMA deadline, the Town was notified by letter on November 21, 2024, that the Town was placed on probation with the National Flood Insurance Program effective November 18, 2024 in part due to its failure to "[r]emove noncompliant structures that were incorrectly permitted and should not have been placed in the Special Flood Hazard Area"; and

WHEREAS, in order to comply with minimum floodplain standards and the requirements of the National Flood Insurance Program, the Town must now revoke and rescind emergency temporary placement permits which allow noncompliant structures in the Special Flood Hazard Area; and

WHEREAS, the definition of a "structure" for floodplain management purposes pursuant to 44 CFR Part 59.1 includes "any walled and roofed building, manufactured home or travel trailer without wheels," and

WHEREAS, the definition of a "manufactured home" for floodplain management purposes pursuant to 44 CFR 59.1 is "a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle"; and

WHEREAS, adoption of this Resolution is in the best interest of the residents of the Town as a step towards removal of its probationary status in the National Flood Insurance Program and compliance with its floodplain regulations.

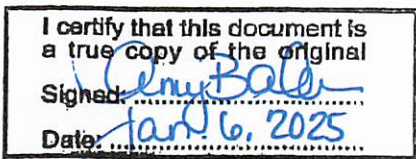
NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

Section 1. The foregoing "Whereas" clauses are ratified and confirmed as being true and correct, are the legislative and administrative findings of the Town Council and are made a specific part of this Resolution.

Section 2. All emergency temporary placement permits for "noncompliant structures that were incorrectly permitted and should not have been placed in the Special Flood Hazard Area" are hereby revoked and rescinded.

Section 3. The Town Manager is directed and authorized to immediately take the following actions to implement this Resolution:

1. Provide formal Notice to holders of any emergency temporary placement permit by certified mail, posting on the property and any other known method for notification that:
 - a) the permit is revoked and rescinded as of December 16, 2024; and
 - b) the permit holder may appeal this revocation action pursuant to Section 34-86 of the Code of Ordinances as stated in Section 4 of Ordinance 24-04, or by any other lawful means; and
 - c) the contact information for a member of the Town staff, who can answer questions and provide more information.



The Notice shall also include a copy of this Resolution and FEMA's letter of November 21, 2204

2. Initiate or continue any needed code enforcement action against permit holders who fail to immediately begin removal of noncompliant structures.

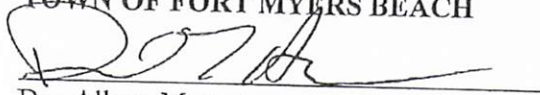
Section 4. This Resolution shall take effect immediately upon its adoption by the Town Council of the Town of Fort Myers Beach.

THE FOREGOING RESOLUTION was adopted by the Town Council upon motion by Mayor Allers and seconded by Vice Mayor Atterholt, and upon being put to a vote, the result was as follows:

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

APPROVED AND ADOPTED this 16th day of December 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, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 16th day of December 2024.



FEMA

July 24, 2025

The Honorable Will McKannay
Town Manager, Town of Fort Myers Beach
6231 Estero Blvd
Fort Myers Beach, FL 33931

Reference: National Flood Insurance Program (NFIP) Community Assistance Visit (CAV)
Report of Findings

Dear Mr. McKannay:

The purpose of this letter is to provide you with our findings from the CAV that the Federal Emergency Management Agency (FEMA) conducted from Tuesday, July 15, 2025, to Thursday, July 17, 2025. Thank you for the courtesy extended to Tamara Hansen, Pier Janrhett and Yuzzeff Henderson of FEMA Region 4 and Scott Gaines, of the Florida Department of Emergency Management (FDEM).

An introductory meeting was held by FEMA Specialists Tamara Hansen, Pier Janrhett, Yuzzeff Henderson Melendez, Scott Gaines with FDEM, yourself and members of the Town of Fort Myers Beach staff including Thomas Yozzo, Tracie Kohler, Kelly Defedericis, Frankie Kropacek, Georgina Cid, Shanette Thomas and Traci Raski. FEMA Region 4 Staff, Jacky Bell and Jason Hunter, Mr. Michael Burchette (FDEM) attended virtually. As stated during the meeting, we are very appreciative of the Town's efforts to prepare for the CAV and extended attendance of your staff for the duration of the CAV.

The purpose of this visit was to determine if the Town of Fort Myers Beach's floodplain management program is compliant with the minimum requirements of the National Flood Insurance Program. During this visit, outstanding sites identified in the Community Rating System (CRS) Retrograde appeal process in April 2024, were discussed. These sites were originally identified during field tours conducted in October and November 2023, following technical assistance visits after Hurricane Ian. During the permit reviews conducted as part of the CRS Retrograde appeal process, FEMA personnel identified various actions that were in violation of the Town's floodplain management program resulting in the community's probation from the National Flood Insurance Program. Subsequently, the Town was retrograded in CRS, effective April 1, 2025.

On April 28, 2025, the Town was notified that the requirement to be removed from probation under the NFIP had been met, effective November 18, 2025.

During the CAV, the Town of Fort Myers Beach's floodplain management program and the floodplain development permit process were reviewed and discussed. Additionally, a field tour was conducted to capture potential violations in the floodplain.

We have reviewed the Town's floodplain management regulations in Ordinance 24-03 and found that it meets the minimum requirement of the National Flood Insurance Program. We didn't find language adopting Limit of Moderate Wave Action requirements beyond the Florida Building Code, nor the state's accessory language which is based upon FEMA Policy #104-008-03. Please contact Scott Gaines at scott.gaines@em.myflorida.com if the Town is interested in adopting language related to either of these topics.

During the visit, the following programmatic deficiencies were identified and must be resolved:

1. Substantial Damage/Substantial Improvement Determination Process

○ *Concerns:*

- During the permit documentation review, evidence showed that permits were issued prior to a Substantial Damage/Substantial Improvement determination having been made by the Town, resulting in non-compliant structures that were potentially Substantial Damaged/Substantial Improved and repaired without being brought into compliance with the Town's floodplain management regulations.
- Additionally, the permitting staff who reviewed and issued permits didn't have access to Substantial Damage determinations list, which lead to permits being issued for structures that had been deemed to be Substantially Damaged, without ensuring the structures were brought into compliance with the Town's floodplain management regulations.
- Some of the cost to repair estimates seem to only include costs to repair damages located below the base flood elevation.
- In the Town's Substantial Damage Management Plan, November 2024-Draft, *Cost of Work Verification – Pre-Permit Issuance* section, it indicates that verification of repairs and associated cost to repair the structure will be accounted for before issuing a building permit.
-

○ *Corrective actions require:*

- On or before August 8, 2025, provide a Standard Operating Procedure that documents the Substantial Damage/Substantial Improvement Determination Process and the permitting process. This should include how determinations are shared with staff who process permit applications.

2. Floodplain reviews related to Private Providers

○ *Concerns:*

- The Town requires Under Construction Elevation Certificates to be submitted and approved, before the building's construction goes vertical.
- Private providers aren't complying with this requirement. Permits that were reviewed for documented structures well beyond this tie-beam inspection that had failed to submit Under Construction Elevation Certificates.
- Failure to take corrective actions can result in non-compliant structures being identified after construction has been completed.

○ *Corrective actions require:*

- On or before August 8, 2025, provide revised permitting process procedures and any supporting documentation that addresses failure by the Private Providers to meet the Town's requirement for submittal of the Under Construction Elevation Certificate.

3. The Town adopted the following ordinances to allow temporary placement of various types of units: "Temporary Placement of Emergency Uses, Manufactured Homes, Mobile Homes, Motor Homes, Recreational Vehicles Other Temporary Residential Dwelling or Temporary Moveable Commercial Units" (Ordinance 23-05), "Temporary Governmental, Residential (Manufactured Homes, Mobile Homes, Motor Homes, Recreational Vehicles Other Temporary Residential Dwellings) or Movable Commercial Uses following Natural Disasters or Other Emergencies" (Ordinance 24-04), and "RESOLUTION TO REVOKE AND RESCIND EMERGENCY TEMPORARY PLACEMENT PERMITS" (Resolution Number 24-296).

▪ *Concerns:*

- Ordinance 23-05 and 24-04 authorized installation of non-compliant temporary units.
- Resulted in numerous non-compliant temporary units. Some have been removed, while others are still present.
- Resolution Number 24-296 (approved December 16, 2024) "mandated removal of noncompliant structures that were incorrectly permitted," but numerous noncompliant structures remain in place.

▪ *Corrective actions require:*

- On or before August 8, 2025, remove the non-compliant temporary structures.

During the field tour, data for 252 sites was collected. The list of addresses includes sites that fall into the following categories: 1) non-compliant structures that need to be mitigated, 2) structures that require additional documentation to determine compliance, and 3) temporary structures that need to be elevated and anchored or removed. The list of site addresses with the required action/documentation are in the attached Site List.

Following the field tour, an exit meeting was held with the Town, FEMA, and FDEM staff on July 17, 2025. FEMA's findings of the community's floodplain management program and the floodplain development permit process were discussed. As stated in the meeting, we ask that you review each program deficiency and the attached site list. The deadline to submit the requested documents or documented actions is August 8, 2025.

We recommend that the staff who support the administration and enforcement of the Town's floodplain management program, including code enforcement staff, also attend floodplain management training courses. FEMA's National Disaster and Emergency Management University (NDEMU) and the Florida Floodplain Managers Association (FFMA) offer various floodplain management-related training courses for local officials. For your convenience, web addresses for NDEMU's and FFMA's website are provided below:

www.training.fema.gov
flfloods.org

We appreciate the Town of Fort Myers Beach's commitment to administering the NFIP. We would like to remind you that the requirement for participation in the CRS is your community's full compliance with the NFIP. Again, we request that the Town provide the requested documentation by August 8, 2025, for consideration of reinstatement to the CRS program on April 1, 2026. If your staff members have questions or require additional information, Ms. Tamara Hansen may be reached by telephone at (770) 220-5288 or by e-mail at tamara.hansen@fema.dhs.gov and Pier Janrhett may be reached by telephone at (202) 826-5655 or by e-mail at pier.janrhett@fema.dhs.gov.

Sincerely,

Jacky S. Bell
Director
Mitigation Division

Attachment: Site List

Cc: Ms. Jillian Kraynak, Florida NFIP State Coordinator
Ms. Traci Kohler, Deputy Town Manager, Town of Fort Myers Beach
Ms. Kelli Defedericis, Floodplain Administrator, Town of Fort Myers Beach
Mr. Tom Yozzo, Emergency Services Director, Town of Fort Myers Beach
Mr. Frankie Kropacek, Operations & Compliance Director, Town of Fort Myers Beach

HEARING

EXHIBIT

C

- Notice of Violation



Town of Fort Myers Beach

CODE COMPLIANCE

2731 Oak Street Fort Myers Beach, FL 33931
Phone: (239) 765-0202 Fax: (239) 765-0909

07/30/2025

Case Number:	20250655
Certified Mail:	70222410000084701730
Regular Mail	

PESSOTTI, RUBY
6875 ESTERO BLVD
FORT MYERS BEACH, FL 33931

SITE ADDRESS: 6875 ESTERO BLVD
PARCEL STRAP NO: 034724W1000020020

NOTICE OF VIOLATION

YOU ARE HEREBY NOTIFIED that an inspection of the above-referenced property on by Town of Fort Myers Beach Code Enforcement Officer **Marcio Chavez** indicates that the following items are in violation:

For the keeping and/or maintaining of non-compliant structure(s) and/or shipping containers on property, which are not built to current flood design codes in the Special Hazard Areas as defined in Section 6-494 of the FMB Code of Ordinances. (Coastal AE Zone for this property requires 13 feet)

These items are a violation of the following Town Codes:

ASCE 24-14 A copy is available at https://www.fema.gov/sites/default/files/2020-07/asce24-14_highlights_jan2015.pdf

Sec. 6-501. - Design and construction of buildings, structures and facilities exempt from the Florida Building Code. Pursuant to section 6-443, buildings, structures and facilities that are exempt from the Florida Building Code, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, must be designed and constructed in accordance with the flood load and flood-resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that are not walled and roofed buildings must comply with the requirements of division 10, subdivision VII.

Sec. 6-525. - General requirements for other development. All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this article or the Florida Building Code, must:

(1)Be located and constructed to minimize flood damage;(2)Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;(3)Be constructed of flood damage-resistant materials; and(4)Have mechanical, plumbing and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

COMPLIANCE:

The following action is needed to bring the violation(s) into compliance. 1) Remove Structure(s) and/or Shipping Containers from property. 2) Provide proof of compliance with the requirements of Chapter 6, Article IV Division Section 6-501 and 5-525 of the Land Development Code.

You are hereby directed to bring these violations into compliance within 15 Days.

ONCE THIS VIOLATION(S) IS (ARE) IN COMPLIANCE, IT IS YOUR OBLIGATION TO NOTIFY CODE ENFORCEMENT SO THAT THE PROPERTY CAN BE INSPECTED TO VERIFY THAT THE VIOLATION(S) HAS (HAVE) BEEN CORRECTED ON OR BEFORE THE ABOVE-SPECIFIED COMPLIANCE DATE.

into compliance and reoccur(s), the case may be scheduled for hearing before the Town of Fort Myers Beach Special Magistrate. The Code Enforcement Division may, in their discretion, schedule the case for a hearing and seek a finding of a violation by the Special Magistrate even if you have corrected the violation prior to the time set for the hearing.

You will be provided with a Notice of Hearing specifying the date, time and location of the hearing if one is scheduled. Please be aware that under Florida Statutes, Chapter 162 and Town of Fort Myers Beach Land Development Code, Section 2-427(b), a fine of up to \$250.00 per day for the first violation or \$500.00 per day for a repeat violation may be imposed for each day the violation continues to exist past the date set for compliance by the Special Magistrate. If the Special Magistrate finds that a violation is irreparable or irreversible in nature, a fine of up to \$5,000.00 per violation may be imposed. The Special Magistrate may also assess the costs of prosecution of the case against you and you may be required to pay those fees, even if the violation has been corrected prior to the hearing.

Please contact the Town of Fort Myers Beach Code Enforcement Division at 239-460-7560 or code@fmbgov.com if you have any questions concerning this Notice of Violation.

Respectfully,

Marcio Chavez
Code Enforcement Officer
Town of Fort Myers Beach



Town of Fort Myers Beach

CODE COMPLIANCE

2731 Oak Street Fort Myers Beach, FL 33931

Phone: (239) 765-0202 Fax: (239) 765-0909

07/30/2025

Case Number:	20250655
Certified Mail:	7022241000084701723
Regular Mail	

LEMOS UNLIMITED LLC
7205 ESTERO BLVD STE 702
FORT MYERS BEACH, FL 33931

SITE ADDRESS: 6875 ESTERO BLVD
PARCEL STRAP NO: 034724W1000020020

NOTICE OF VIOLATION

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ASCE 24-14 A copy is available at https://www.fema.gov/sites/default/files/2020-07/asce24-14_highlights_jan2015.pdf

Sec. 6-501. - Design and construction of buildings, structures and facilities exempt from the Florida Building Code. Pursuant to section 6-443, buildings, structures and facilities that are exempt from the Florida Building Code, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, must be designed and constructed in accordance with the flood load and flood-resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that are not walled and roofed buildings must comply with the requirements of division 10, subdivision VII.

Sec. 6-525. - General requirements for other development. All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this article or the Florida Building Code, must:

(1)Be located and constructed to minimize flood damage;(2)Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;(3)Be constructed of flood damage-resistant materials; and(4)Have mechanical, plumbing and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

COMPLIANCE:

The following action is needed to bring the violation(s) into compliance. 1) Remove Structure(s) and/or Shipping Containers from property. 2) Provide proof of compliance with the requirements of Chapter 6, Article IV Division Section 6-501 and 5-525 of the Land Development Code.

You are hereby directed to bring these violations into compliance within 15 Days.

ONCE THIS VIOLATION(S) IS (ARE) IN COMPLIANCE, IT IS YOUR OBLIGATION TO NOTIFY CODE ENFORCEMENT SO THAT THE PROPERTY CAN BE INSPECTED TO VERIFY THAT THE VIOLATION(S) HAS (HAVE) BEEN CORRECTED ON OR BEFORE THE ABOVE-SPECIFIED COMPLIANCE DATE.

into compliance and reoccur(s), the case may be scheduled for hearing before the Town of Fort Myers Beach Special Magistrate. The Code Enforcement Division may, in their discretion, schedule the case for a hearing and seek a finding of a violation by the Special Magistrate even if you have corrected the violation prior to the time set for the hearing.

You will be provided with a Notice of Hearing specifying the date, time and location of the hearing if, one is scheduled. Please be aware that under Florida Statutes, Chapter 162 and Town of Fort Myers Beach Land Development Code, Section 2-427(b), a fine of up to \$250.00 per day for the first violation or \$500.00 per day for a repeat violation may be imposed for each day the violation continues to exist past the date set for compliance by the Special Magistrate. If the Special Magistrate finds that a violation is irreparable or irreversible in nature, a fine of up to \$5,000.00 per violation may be imposed. The Special Magistrate may also assess the costs of prosecution of the case against you and you may be required to pay those fees, even if the violation has been corrected prior to the hearing.

Please contact the Town of Fort Myers Beach Code Enforcement Division at 239-460-7560 or code@fmbgov.com if you have any questions concerning this Notice of Violation.

Respectfully,

Marcio Chavez
Code Enforcement Officer
Town of Fort Myers Beach



TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

LEMONS UNLIMITED LLC
7205 Estero Blvd
Fort Myers Beach, FL 33931

FMB Case Number:	20250655
Certified Mail:	70222410000084701730 70222410000084701723
Regular Mail:	Standard 1st Class
Magistrate Case Number:	Not Assigned

Site Address: 6875 Estero Blvd
Fort Myers Beach, FL 33931
Parcel Strap No. 034724W1000020020

Respondent,

AFFIDAVIT OF NOTICE AND POSTING

STATE OF FLORIDA

COUNTY OF LEE

BEFORE ME, the undersigned authority, personally appeared Thomas Yozzo, who is the Emergency Services Director for the Town of Fort Myers Beach, who was sworn and under oath, deposes and says the following regarding case #20250655 that certain Notice of Violation. Presented as Hearing Exhibit A ("The Notice")

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | 2731 Oak Street, Fort Myers Beach, FL 33931



I personally mailed by certified mail & first-class service a copy of the Notice of Violation to the following:

- a. Lemos Unlimited LLC
7205 Estero Blvd
Fort Myers, FL 33931
Certified Mail No. 70222410000084701723
(Listed Leepa.org / Lee County Tax Collector Property Owner Address)

- b. N/A

Certified Mail No.
(Alternative Listed Mailing Address)

- c. Ruby Pessotti
6875 Estero Blvd
Fort Myers, FL 33931
Certified Mail No. 9589071052703142135255
(Registered Agent for Company)

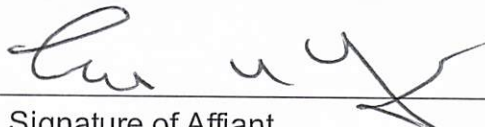
Copies of the certified mailing receipts are attached in Hearing Exhibit A.

1. I posted a copy of the Notice at 6875 Estero Blvd, Fort Myers Beach, FL 33931, which is the subject property. I took photographs of the Notice I posted on the 30th day of July 2025. A true, accurate and unaltered copy of the photographs are attached in Hearing Exhibit A.
2. I posted a copy of the Notice at the primary municipal government office for the Town of Fort Myers Beach, which is Town Hall and located at 6231 Estero Blvd, Fort Myers Beach, FL 33931. True, accurate and unaltered copies of photographs I took of the Notice posted on the 30th day of July 2025 are attached in Hearing Exhibit A.



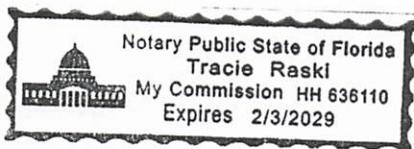
3. In addition, I posted a copy of the Notice on the Town's publicly accessible website at <https://www.fortmyersbeachfl.gov/1294/Public-Notices> on the 30th day of July 2025. A copy of the posted webpage is attached as Evidence in Hearing Exhibit A.

Under penalties of perjury, I declare that I have read the foregoing affidavit and that the facts stated in it are true and to the best of my knowledge and belief comply with Section 2-429 of the Town Land Development Code and Section 162.12, Florida Statutes.

x 
Signature of Affiant

**STATE OF FLORIDA
COUNTY OF LEE**

The foregoing instrument was sworn to, subscribed and acknowledged before me by means of either ☒ personal presence or ☐ online notarization this 30 day of July, 2025, by T Yozzo. They ☒ are personally known to me or ☐ has produced _____ as identification.



[Notary Seal]


Notary Public, State of Florida
Print Name: Tracie Raski
My Commission Expires: 2-3-2029

7022 2410 0000 8470 1720

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
 Domestic Mail Only

For delivery information, visit our website at www.usps.com®

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Extra Services & Fees (check box, add fee as indicated)

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☐ Return Receipt (electronic) \$

☐ Certified Mail Restricted Delivery \$

☐ Adult Signature Required \$

☐ Adult Signature Restricted Delivery \$

Postage \$

Total Postage and Fees \$

Sent by: Town of Fort Myers Beach

Postmark: JUL 30 2025 Here MC

Case # 20250655

6875 Estero Blvd

PESSOTTI, RUBY
 6875 ESTERO BLVD
 FORT MYERS BEACH, FL 33931

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7022 2410 0000 8470 1723

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
 Domestic Mail Only

For delivery information, visit our website at www.usps.com®

OFFICIAL USE

Certified Mail Fee \$

Extra Services & Fees (check box, add fee as indicated)

☐ Return Receipt (hardcopy) \$

☐ Return Receipt (electronic) \$

☐ Certified Mail Restricted Delivery \$

☐ Adult Signature Required \$

☐ Adult Signature Restricted Delivery \$

Postage \$

Total Postage and Fees \$

Sent by: Town of Fort Myers Beach

Postmark: JUL 30 2025 Here MC

Case # 20250655

6875 Estero Blvd

LEMOS UNLIMITED LLC
 7205 ESTERO BLVD STE 702
 FORT MYERS BEACH, FL 33931

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions



Town of Fort Myers Beach
CODE COMPLIANCE
2731 Oak Street Fort Myers Beach, FL 33931
Phone: (239) 765-0202 Fax: (239) 765-0909

07/30/2025

Case Number:	20250655
Certified Mail:	70222410000084701723
Regular Mail:	

LEMOS UNLIMITED LLC
7205 ESTERO BLVD STE 702
FORT MYERS BEACH, FL 33931

SITE ADDRESS: 6875 ESTERO BLVD
PARCEL STRAP NO: 034724W1000020020

NOTICE OF VIOLATION

YOU ARE HEREBY NOTIFIED that an inspection of the above-referenced property on by Town of Fort Myers Beach Code Enforcement Officer **Marcio Chavez** indicates that the following items are in violation:

For the keeping and/or maintaining of non-compliant structure(s) and/or shipping containers on property, which are not built to current flood design codes in the Special Hazard Areas as defined in Section 6-494 of the FMB Code of Ordinances. (Coastal AE Zone for this property requires 13 feet)

These items are a violation of the following Town Codes:

ASCE 24-14 A copy is available at https://www.fema.gov/sites/default/files/2020-07/asce24-14_highlights_jan2015.pdf

Sec. 6-501. - Design and construction of buildings, structures and facilities exempt from the Florida Building Code. Pursuant to section 6-443, buildings, structures and facilities that are exempt from the Florida Building Code, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, must be designed and constructed in accordance with the flood load and flood-resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that are not walled and roofed buildings must comply with the requirements of division 10, subdivision VII.

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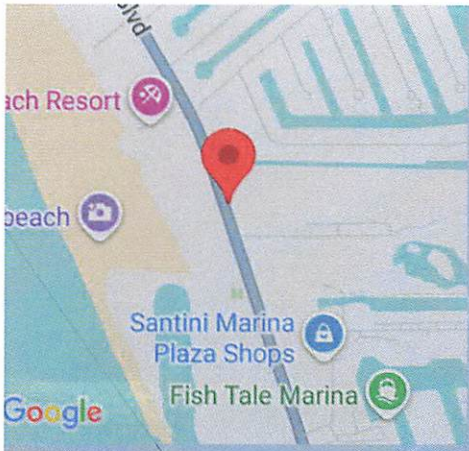
Staples





Aug 26, 2025 11:08:14 AM

Fort Myers Beach



You are hereby directed to bring these violations into compliance within 30 Days.

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Town of Fort Myers Beach
CODE COMPLIANCE

2731 Oak Street Fort Myers Beach, FL 33931
Phone: (239) 765-0202 Fax: (239) 765-0909

07/30/2025

Case Number:	20250655
Certified Mail:	70222410000084701723
Regular Mail	

LEMOS UNLIMITED LLC
7205 ESTERO BLVD STE 702
FORT MYERS BEACH, FL 33931

SITE ADDRESS: 6875 ESTERO BLVD
PARCEL STRAP NO: 034724W1000020020

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CODE COMPLIANCE

2731 Oak Street Fort Myers Beach, FL 33931
Phone: (239) 765-0202 Fax: (239) 765-0909

JUL 30 2025 1:29:22 PM Page 120 of 176

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ONCE THIS VIOLATION(S) IS (ARE) IN COMPLIANCE, IT IS YOUR OBLIGATION TO NOTIFY CODE



Town of Fort Myers Beach
CODE COMPLIANCE
2731 Oak Street Fort Myers Beach, FL 33931
Phone: (239) 765-0202 Fax: (239) 765-0909

07/30/2025

Case Number:	20250655
Certified Mail:	70222410000084701730
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PESSOTTI, RUBY
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FORT MYERS BEACH, FL 33931

SITE ADDRESS: 6875 ESTERO BLVD
PARCEL STRAP NO: 034724W1000020020

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HEARING

EXHIBIT

D

- Violated Regulations

Sec. 6-501. - Design and construction of buildings, structures and facilities exempt from the Florida Building Code.

Pursuant to ~~section 6-443~~, buildings, structures and facilities that are exempt from the Florida Building Code, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, must be designed and constructed in accordance with the flood load and flood-resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that are not walled and roofed buildings must comply with the requirements of division 10, subdivision VII.

(Ord. No. 16-02, § 2, 8-8-2016)

Sec. 6-525. - General requirements for other development.

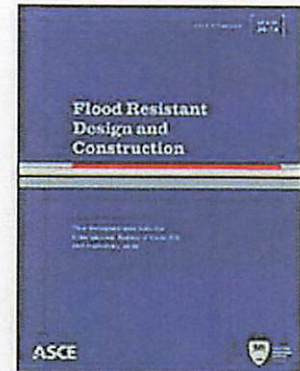
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(Ord. No. 16-02, § 2, 8-8-2016)

HIGHLIGHTS OF ASCE 24-14 *Flood Resistant Design and Construction*

Published by the American Society of Civil Engineers (ASCE), *Flood Resistant Design and Construction*, ASCE 24, is a referenced standard in the *International Codes*[®] (I-Codes[®]). ASCE 24 states the minimum requirements and expected performance for the siting and design and construction of buildings and structures in flood hazard areas that are subject to building code requirements. Types of buildings and structures are described in ASCE 24-14, Table 1-1 (see page 5 of these Highlights), and include commercial, residential, industrial, educational, healthcare, critical facilities, and other occupancy types. Buildings and structures designed according to ASCE 24 are better able to resist flood loads and flood damage.



FEMA deems ASCE 24 to meet or exceed the minimum National Flood Insurance Program (NFIP) requirements for buildings and structures. ASCE 24 includes additional specificity, some additional requirements, and some limitations that are not in NFIP regulations.

Buildings and structures within the scope of the IBC and proposed to be located in any flood hazard area must be designed in accordance with ASCE 24. The 2015 I-Codes reference ASCE 24-14, while the 2006 through 2012 I-Codes reference ASCE 24-05. The *International Residential Code*[®] requires dwellings in floodways to be designed in accordance with ASCE 24, and the 2015 edition of the IRC allows use of ASCE 24 for dwellings in any flood hazard area (the 2012 and 2009 editions allow use of ASCE 24 in Coastal High Hazard Areas).

Highlights of ASCE 24-14 that complement the NFIP minimum requirements are described below.

A summary of significant technical revisions from ASCE 24-05 to ASCE 24-14 is reproduced on page 6 of these Highlights.

Building Performance

- Flood loads and other loads and load combinations are specified in ASCE 7-10, *Minimum Design Loads for Buildings and Other Structures*. Performance of foundations exposed to flooding is specified in ASCE 24. Soil characteristics and underlying strata, including soil consolidation, expansion or movement, erosion and scour, liquefaction and subsidence must be considered, as applicable.
- Flood Design Classes replace Occupancy/Risk Categories for the purpose of establishing elevations of lowest floors, flood-resistant materials, equipment and floodproofing. The 2015 *International Building Code* requires designers to identify the Flood Design Class assigned in accordance with ASCE 24-14.
- Elevation and Freeboard (additional height above the NFIP's base flood elevation) are specified as a function of the Flood Design Class and the nature of the flood hazard areas (see table on page 4 of these Highlights). Essential facilities (Flood Design Class 4) must be elevated or protected to the BFE + 2 ft or 500-year flood elevation, whichever is higher.
- Elevation requirements in Zone V and Coastal A Zones are independent of orientation of the lowest horizontal structural member (relative to direction of wave approach) as a factor in determining the required freeboard (ASCE 24-05 made elevation a function of orientation of the lowest horizontal structural member relative to the direction of wave approach).

ASCE 24 uses 'design flood' and 'design flood elevation' to acknowledge that some communities adopt flood hazard maps that depict flood hazard areas in addition to Special Flood Hazard Areas shown on FEMA's Flood Insurance Rate Maps (FIRM).

The design flood elevation (DFE) equals the base flood elevation (BFE) in communities that regulate based on FIRMs. The DFE is always equal to or higher than the BFE.

- Fill is required to be stable under conditions of flooding, including rapid rise and rapid drawdown, prolonged inundation, and erosion and scour. Compaction of structural fill is specified unless otherwise required by the building code or in a geotechnical or engineering report. Fill side slopes must be no steeper than 1:1.5.
- Two methods are specified to meet the requirements for flood openings in walls of enclosures below elevated buildings, to allow for the automatic entry and exit of floodwater: nonengineered openings that do not require certification (1 sq in per sq ft of enclosed area) and engineered openings that must be certified by a registered design professional. The performance of engineered openings must account for the presence of louvers, blades, screens, grilles, faceplates, or other covers and devices and must ensure that the difference between the exterior and interior floodwater levels does not exceed 1 foot. Installation of all flood openings must be in at least two walls and must be no more than 1 foot above the higher of the interior grade or floor and the finished exterior grade immediately under each opening.
- All breakaway walls in all flood hazard areas must have flood openings (ASCE 24-05 did not require flood openings in Zone V breakaway walls).
- Provisions are included for attached and detached decks and porches, and for garages, carports, and accessory storage structures.
- Provisions are listed for concrete slabs-on-grade, depending on the purpose and location of the slabs.
- Stairways and ramps must be designed and constructed to resist flood loads and to minimize transfer of flood loads to foundations, or to break away without causing damage to the main structure, or to be retractable/able to be raised.
- Where stairways are located inside areas enclosed with breakaway walls, exterior doors are required at the main building entry at the top of the stairs, to minimize entry of wind-driven rain and wave splash after breakaway walls have failed.
- In Coastal High Hazard Areas (Zone V) and Coastal A Zones:
 - Coastal A Zones are treated like Coastal High Hazard Areas if FEMA has delineated a Limit of Moderate Wave Action, or if the community has designated a Coastal A Zone.
 - Buildings must be supported on piles, drilled shafts, caissons, or other deep foundations (including columns, and shear walls) and foundation depth must take into account erosion and local scour.
 - Stem walls supporting floors and backfilled with soil or gravel are allowed in Coastal A Zones if designs provide for the effects of local scour and erosion.
 - Requirements are included for shallow foundations in circumstances where soil conditions prevent deep foundations.
 - Provisions are provided for pile foundations, attachment to piles, and different types of piles (wood, steel H, concrete-filled steel pipe, prestressed concrete, precast concrete, cast-in-place concrete).
 - Provisions are provided for pile design (capacity, capacity of supporting soils, minimum penetration, spacing, connections, splicing, and mixed and multiple types of piles).
 - Provisions are provided for footings, mats, rafts, slabs-on-grade, pile caps, grade beams, bracing, and shear walls.
 - Walls designed to break away must not produce debris that is capable of damaging structures.
 - Erosion control structures (bulkheads, seawalls, revetments) must not be attached to buildings or direct floodwater into or increase flood forces or erosion impacts on structures.
 - Pools must be elevated, or designed to breakaway without producing damaging debris, or designed to remain in the ground without obstructing flow that causes damage. Pools must be structurally independent of buildings and structures unless pools are located in or on elevated floors or roofs that are above the design flood elevation.

- Dry floodproofed nonresidential buildings and non-residential portions of mixed-use buildings:
 - The terms “mixed use” and “residential portions of mixed use” now are defined in Commentary.
 - Dry floodproofing measures are not permitted in Coastal High Hazard Areas, Coastal A Zones, High Risk Flood Hazard Areas, where flood velocities exceed 5 ft/sec, and where conformance with certain human intervention limits cannot be achieved.
 - At least one exit door or emergency escape/rescue opening must be provided above the elevation specified for dry floodproofing.
 - If dry floodproofing measures specified require human intervention to activate or implement, there must be a minimum warning time of 12 hours unless a community warning system provides a warning time sufficient to accomplish certain activities. If removable shields are approved as part of design, flood emergency plans must address specified elements and actions and must be posted in at least two conspicuous locations.

Flood Damage-Resistant Materials

- Flood damage-resistant materials must be used below specified elevations (see table on page 4).
- Metal connectors and fasteners exposed to salt water, salt spray or other corrosive agents must be stainless steel or equivalent corrosion resistant material, or hot-dipped galvanized after fabrication.
- Where preservative treated wood is required, treatment must be in accordance with AWP requirements.

Attendant Utilities and Equipment

- Attendant utilities and equipment must be at or above specified elevations (see table on page 4), or must be specifically designed, constructed, and installed to prevent floodwaters from entering or accumulating within components.
- Fuel supply lines must be equipped with float operated automatic shut-off valves.
- Where required to meet life safety provisions of the code, certain exterior electrical components may be installed below the design flood elevation, provided they are installed on a non-breakaway structural element on the landward or downstream side of structures.
- Tanks that are below the design flood elevation and that are attached to or beneath buildings must be installed and anchored to resist at least 1.5 times the potential buoyant and other flood forces assumed to act on empty tanks.
- Elevator cabs that descend below the design flood elevation must be equipped with controls that prevent the cab from descending into floodwaters. Elevator shafts must be designed to resist flood loads, but are not required to have flood openings or breakaway walls.

Siting Considerations

- New buildings must not be built (1) seaward of the reach of mean high tide, or (2) in areas subject to flash flooding (floodwaters rise to 3 feet or more above banks in less than 2 hours). Unless protected, new buildings must not be built (1) in erosion-prone areas (determined by analysis); or (2) in mudslide areas (determined by analysis); or (3) in certain portions of alluvial fan areas; or (4) in high velocity flow areas (faster than 10 ft/sec); or (5) in ice jam and debris areas.
- Buildings in proximity to flood protective works (dams, levees, floodwalls, diversions, channels, flood control structures) must not have adverse effects on, or conflict with, maintenance and repairs of those protective works.

Prepared by FEMA Building Science Branch. Content from ASCE 24-14 used with permission from ASCE. Purchase ASCE 24 at www.asce.org.

See next page for description of Flood Design Classes →

		Flood Design Class 1	Flood Design Class 2	Flood Design Class 3	Flood Design Class 4
Minimum Elevation* of Lowest Floor (Zone A: ASCE 24-14 Table 2-1)	Zone A not identified as Coastal A Zone	DFE	BFE +1 ft or DFE, whichever is higher	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, or 500-year flood elevation, whichever is higher
Minimum Elevation of Bottom of Lowest Horizontal Structural Member (Zone V: ASCE 24-14 Table 4-1)	Coastal High Hazard Areas (Zone V) and Coastal A Zone	DFE	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, whichever is higher	BFE +2 ft or DFE, or 500-year flood elevation, whichever is higher
Minimum Elevation Below Which Flood-Damage-Resistant Materials Shall be Used (Table ASCE 24-14 5-1)	Zone A not identified as Coastal A Zone	DFE	BFE +1 ft or DFE, whichever is higher	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, or 500-year flood elevation, whichever is higher
	Coastal High Hazard Areas (Zone V) and Coastal A Zone	DFE	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, whichever is higher	BFE +2 ft or DFE, or 500-year flood elevation, whichever is higher
Minimum Elevation** of Utilities and Equipment (ASCE 24-14 Table 7-1)	Zone A not identified as Coastal A Zone	DFE	BFE +1 ft or DFE, whichever is higher	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, or 500-year flood elevation, whichever is higher
	Coastal High Hazard Areas (Zone V) and Coastal A Zone	DFE	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, whichever is higher	BFE +2 ft or DFE, or 500-year flood elevation, whichever is higher
Minimum Elevation of Dry Floodproofing of non-residential structures and non-residential portions of mixed-use buildings (ASCE 24-14 Table 6-1)	Zone A not identified as Coastal A Zone	BFE +1 ft or DFE, whichever is higher	BFE +1 ft or DFE, whichever is higher	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, or 500-year flood elevation, whichever is higher
	Coastal High Hazard Areas (Zone V) and Coastal A Zone	Not permitted	Not permitted	Not permitted	Not permitted
Minimum Elevation of Wet Floodproofing*** (ASCE 24-14 Table 6-1)	Zone A not identified as Coastal A Zone; Coastal A Zone; Coastal High Hazard Areas (Zone V)	BFE +1 ft or DFE, whichever is higher	BFE +1 ft or DFE, whichever is higher	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, or 500-year flood elevation, whichever is higher
* Flood Design Class 1 structures shall be allowed below the minimum elevation if the structure meets the wet floodproofing requirements of ASCE 24-14 Section 6.3. ** Unless otherwise permitted by ASCE 24-14 Chapter 7 *** Only if permitted by ASCE 24-14 Section 6.3.1					

ASCE 24-14 Table 1-1 Flood Design Class of Buildings and Structures	
Use or Occupancy of Buildings and Structures	Flood Design Class
Buildings and structures that normally are unoccupied and pose minimal risk to the public or minimal disruption to the community should they be damaged or fail due to flooding. Flood Design Class 1 includes (1) temporary structures that are in place for less than 180 days, (2) accessory storage buildings and minor storage facilities (does not include commercial storage facilities), (3) small structures used for parking of vehicles, and (4) certain agricultural structures. [Note (a)]	1
Buildings and structures that pose a moderate risk to the public or moderate disruption to the community should they be damaged or fail due to flooding, except those listed as Flood Design Classes 1, 3, and 4. Flood Design Class 2 includes the vast majority of buildings and structures that are not specifically assigned another Flood Design Class, including most residential, commercial, and industrial buildings.	2
Buildings and structures that pose a high risk to the public or significant disruption to the community should they be damaged, be unable to perform their intended functions after flooding, or fail due to flooding. Flood Design Class 3 includes (1) buildings and structures in which a large number of persons may assemble in one place, such as theaters, lecture halls, concert halls, and religious institutions with large areas used for worship; (2) museums; (3) community centers and other recreational facilities; (4) athletic facilities with seating for spectators; (5) elementary schools, secondary schools, and buildings with college or adult education classrooms; (6) jails, correctional facilities, and detention facilities; (7) healthcare facilities not having surgery or emergency treatment capabilities; (8) care facilities where residents have limited mobility or ability, including nursing homes but not including care facilities for five or fewer persons; (9) preschool and child care facilities not located in one- and two-family dwellings; (10) buildings and structures associated with power generating stations, water and sewage treatment plants, telecommunication facilities, and other utilities which, if their operations were interrupted by a flood, would cause significant disruption in day-to-day life or significant economic losses in a community; and (11) buildings and other structures not included in Flood Design Class 4 (including but not limited to facilities that manufacture, process, handle, store, use, or dispose of such substances as hazardous fuels, hazardous chemicals, hazardous waste, or explosives) containing toxic or explosive substances where the quantity of the material exceeds a threshold quantity established by the authority having jurisdiction and is sufficient to pose a threat to the public if released. [Note (b)]	3
Buildings and structures that contain essential facilities and services necessary for emergency response and recovery, or that pose a substantial risk to the community at large in the event of failure, disruption of function, or damage by flooding. Flood Design Class 4 includes (1) hospitals and health care facilities having surgery or emergency treatment facilities; (2) fire, rescue, ambulance, and police stations and emergency vehicle garages; (3) designated emergency shelters; (4) designated emergency preparedness, communication, and operation centers and other facilities required for emergency response; (5) power generating stations and other public utility facilities required in emergencies; (6) critical aviation facilities such as control towers, air traffic control centers, and hangars for aircraft used in emergency response; (7) ancillary structures such as communication towers, electrical substations, fuel or water storage tanks, or other structures necessary to allow continued functioning of a Flood Design Class 4 facility during and after an emergency; and (8) buildings and other structures (including, but not limited to, facilities that manufacture, process, handle, store, use, or dispose of such substances as hazardous fuels, hazardous chemicals, or hazardous waste) containing sufficient quantities of highly toxic substances where the quantity of the material exceeds a threshold quantity established by the authority having jurisdiction and is sufficient to pose a threat to the public if released. [Note (b)]	4
[Note (a)] Certain agricultural structures may be exempt from some of the provisions of this standard; see ASCE 24-14 Section C1.4.3. [Note (b)] Buildings and other structures containing toxic, highly toxic, or explosive substances shall be eligible for assignment to a lower Flood Design Class if it can be demonstrated to the satisfaction of the authority having jurisdiction by a hazard assessment as described in ASCE 7-10 Section 1.5.3 of <i>Minimum Design Loads for Buildings and Other Structures</i> that a release of the substances is commensurate with the risk associated with that Flood Design Class.	

Significant Technical Revisions

ASCE 24-14 lists a number of significant technical revisions from the 2005 edition:

1. Defines *Flood Design Class* rather than use Risk/Occupancy Classification assigned under ASCE 7 and requires each building or structure governed by the standard to be assigned to Flood Design Class 1, 2, 3, or 4. Uses the assigned Flood Design Class to apply elevation requirements specified in Chapters 2, 4, 5, 6 and 7. Flood Design Class 4 buildings and facilities are equivalent to Occupancy Category/Risk Category IV buildings, which ASCE 7-10 identifies as essential facilities.
2. Adds definitions for *Mixed Use* and *Residential Portions of Mixed Use* in commentary to clarify limitations on use of dry floodproofing measures.
3. Changes the Coastal A Zone determination requirement from the designer's responsibility to one depending on either: 1) delineation of a Limit of Moderate Wave Action (LiMWA) on a Flood Insurance Rate Map, or 2) designation by the Authority Having Jurisdiction.
4. Separates specifications for flood openings from the installation requirements. Requires the presence of louvers, blades, screens, faceplates, or other covers and devices to be accounted for in determining net open area for non-engineered openings and in determining the performance of engineered openings. Revises coefficient of discharge table for engineered flood openings. Adds commentary regarding selection of coefficient of discharge and for grouping or stacking of flood openings.
5. For Flood Design Class 4 buildings, requires the minimum lowest floor elevation (or floodproofing level of protection) to be the higher of: the Base Flood Elevation plus freeboard specified in Chapters 2, 4 and 6, the Design Flood Elevation, or the 500-year flood elevation. The 500-year flood elevation requirement is new.
6. Clarifies text pertaining to alluvial fan high risk flood hazard areas.
7. In coastal high hazard areas (V Zone) and Coastal A Zones (if delineated):
 - a. Makes explicit that designs must account for local scour and erosion
 - b. Provides for shallow foundations in Coastal A Zones under certain circumstances
 - c. Requires flood openings in breakaway walls
 - d. Eliminates orientation of the lowest horizontal structural member as a factor to determine elevation for lowest floors, equipment, and flood damage-resistant materials
 - e. Requires exterior doors at the top of stairways that are located inside enclosed areas with breakaway walls
 - f. Consolidates requirements for all nonstructural concrete slabs
 - g. Allows substantial improvement of existing buildings seaward of the reach of mean high tide in V zones (makes ASCE 24 consistent with NFIP) and Coastal A Zones.
8. Updates flood damage-resistant material requirements.
9. Clarifies emergency escape and rescue opening requirements for dry floodproofed buildings.
10. Clarifies requirements for garages, carports, and accessory storage structures. Adds new section for multistory parking structures.
11. Consolidates requirements for tanks and more clearly distinguishes between requirements based on flood hazard area.

Property Address and Owner:

Hearing Date: October 1, 2025

Property Owner: Leonardo Arms Beach Club I
Property Address: 7404 Estero Blvd
Status: Non-Compliant Structure

Subject:

Code Section:

Reference Number:

Strap Number:

Officer:

T. Yozzo

Narrative:

Attachments:

1. 20241103_Hearing Exhibit A_Notice of Hearing and Affidavit of Posting (2)
2. 20241103_Hearing Exhibit B_FEMA and Related Ordinances
3. 20241103_Hearing Exhibit C_Notice of Violation (2)
4. 20241103_Hearing Exhibit D_Status of Compliance

Town Recommendations:

Town Approvals:

Thomas Yozzo, Emergency Services Director

Date: September 19, 2025



Traci Kohler, Deputy Town Manager

Date: September 22, 2025

nancy stuparich, Town Attorney

Date: September 23, 2025

Lizzette Roman, Town Clerk Administrative Coordinator

Date: September 24, 2025

Amy Baker, Town Clerk

Date: September 24, 2025

HEARING

EXHIBIT

A

- Notice of Hearing and Affidavit of Posting



9/5/2025

TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

LEONARDO ARMS BEACH CLUB I
7404 ESTERO BLVD
FORT MYERS BEACH, FL 33931

Respondent.

Case Number:	20241103
Certified Mail:	9589071052703142135064
Regular Mail:	Standard 1 st Class

Site Address: 7404 ESTERO BLVD Fort Myers Beach, FL 33931
Parcel Strap No.: 03-47-24-W4-02000-00CE

NOTICE OF CODE ENFORCEMENT HEARING

YOU ARE HEREBY NOTIFIED that, pursuant to Chapter 162, Florida Statutes and Chapter 2, Article V of the Town of Fort Myers Beach Land Development Code, the undersigned Code Enforcement Officer has documented that (an) uncorrected violation(s) of one or more codes of the Town of Fort Myers Beach, as described in the **NOTICE OF VIOLATION**, previously provided to you (another copy of which is enclosed herewith), exists on the above described property. A hearing before the Town's Code Enforcement Special Magistrate concerning the violation(s) has, therefore, been scheduled for **WEDNESDAY 10-01-2025 at 9:00 A.M.** at Fort Myers Beach Town Hall, located at 6231 Estero Blvd., Fort Myers Beach, Florida 33931.

A copy of the evidentiary case file and all materials provided by the Town Code Enforcement Unit to the Special Magistrate in relation to this hearing can be viewed and accessed in advance of the hearing at the link below:

<http://www.fortmyersbeachfl.gov/209/Meetings-Agendas>

NO ADDITIONAL NOTICE OF THE HEARING WILL BE PROVIDED TO YOU. If you fail to attend this hearing, the Code Enforcement Special Magistrate will consider the case, even though you are not

FORT MYERS BEACH, ESTERO ISLAND

P. 239-765-0202 | **F.** 239-765-0909 | 2731 Oak Street, Fort Myers Beach, FL 33931

(Last 06/2024)



present, and may assess fines or take other actions that will affect your rights. If you believe you have come into compliance, it is your responsibility to contact the Code Enforcement Division so that an inspection can be carried out to determine compliance.

Please be aware that under Florida Statutes Chapter 162 and Town of Fort Myers Beach Land Development Code Section 2-427(b) a fine of up to \$250.00 per day for the first violation or \$500.00 per day for a repeat violation may be imposed for each day the violation continues or is repeated. If the Special Magistrate finds that a violation is irreparable or irreversible in nature, a fine of up to \$5,000.00 per violation may be imposed. The Special Magistrate may also assess the costs of prosecution of the case against you and you may be required to pay those fees, even if the violation(s) has been corrected or abated prior to the hearing.

Thomas Yozzo

Code Enforcement Officer
Town of Fort Myers Beach

NOTE: IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. PLEASE NOTIFY THE TOWN CLERK FOR THE TOWN OF FORT MYERS BEACH, 6231 ESTERO BLVD. FORT MYERS BEACH, FL 33931; TELEPHONE NUMBER (239) 765-0202, AT LEAST 72 BUSINESS HOURS BEFORE THE HEARING DATE.

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE SPECIAL MAGISTRATE WITH RESPECT TO ANY MATTER CONSIDERED AT HEARING, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND, FOR SUCH PURPOSE MAY NEED TO ENSURE AT THEIR OWN EXPENSE FOR THE TAKING AND PREPARATION OF A VERBATIM RECORD OF ALL TESTIMONY AND EVIDENCE BY A COURT REPORTER UPON WHICH THE APPEAL IS TO BE BASED

FORT MYERS BEACH, ESTERO ISLAND

P. 239-765-0202 | F. 239-765-0909 | 2731 Oak Street, Fort Myers Beach, FL 33931



TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

LEONARDO ARMS BEACH CLUB I
7400 Estero Blvd
Fort Myers Beach, FL 33931

FMB Case Number:	20241103
Certified Mail:	9589071052703142135064
Regular Mail:	Standard 1st Class
Magistrate Case Number:	Not Assigned

Site Address: 7404 Estero Blvd
Fort Myers Beach, FL 33931
Parcel Strap No. 034724W40200000CE

Respondent,

AFFIDAVIT OF NOTICE AND POSTING

STATE OF FLORIDA
COUNTY OF LEE

BEFORE ME, the undersigned authority, personally appeared Thomas Yozzo, who is the Emergency Services Director for the Town of Fort Myers Beach, who was sworn and under oath, deposes and says the following regarding case #20241103 that certain Notice of Code Enforcement Hearing. Presented as Hearing Exhibit A ("The Notice")

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | 2731 Oak Street, Fort Myers Beach, FL 33931



I personally mailed by certified mail & first-class service a copy of the Notice of Hearing to the following:

- a. Leonardo Arms Beach Club I
7400 Estero Blvd
Fort Myers, FL 33931
Certified Mail No.9589071052703142135064
(Listed Leepa.org / Lee County Tax Collector Property Owner Address)

b. N/A

Certified Mail No.
(Alternative Listed Mailing Address)

c. N/A

Certified Mail No.
(Registered Agent for Company)

Copies of the certified mailing receipts are attached in Hearing Exhibit A.

1. I posted a copy of the Notice at 7404 Estero Blvd, Fort Myers Beach, FL 33931, which is the subject property. I took photographs of the Notice I posted on the 5th day of September 2025. A true, accurate and unaltered copy of the photographs are attached in Hearing Exhibit A.
2. I posted a copy of the Notice at the primary municipal government office for the Town of Fort Myers Beach, which is Town Hall and located at 6231 Estero Blvd, Fort Myers Beach, FL 33931. True, accurate and unaltered copies of photographs I took of the Notice posted on the 12th day of September 2025 are attached in Hearing Exhibit A.



FMBgov.com

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

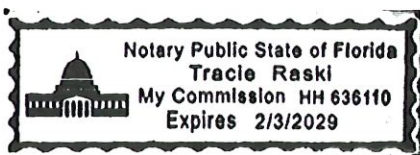
3. In addition, I posted a copy of the Notice on the Town's publicly accessible website at <https://www.fortmyersbeachfl.gov/1294/Public-Notices> on the 5th day of September 2025. A copy of the posted webpage is attached as Evidence in Hearing Exhibit A.

Under penalties of perjury, I declare that I have read the foregoing affidavit and that the facts stated in it are true and to the best of my knowledge and belief comply with Section 2-429 of the Town Land Development Code and Section 162.12, Florida Statutes.

x 
Signature of Affiant

**STATE OF FLORIDA
COUNTY OF LEE**

The foregoing instrument was sworn to, subscribed and acknowledged before me by means of either [X] personal presence or [] online notarization this 12 day of September, 2025, by T Yozzo. They [X] are personally known to me or [] has produced _____ as identification.



[Notary Seal]


Notary Public, State of Florida
Print Name: Tracie Raski
My Commission Expires: 2/3/2029

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | 2731 Oak Street, Fort Myers Beach, FL 33931

9589 0710 5270 3142 1350 64

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Town of Fort Myers Beach

Certified Mail Fee

\$

Extra Services & Fees (check box, add fee as appropriate)

☐ Return Receipt (hardcopy)

\$

☐ Return Receipt (electronic)

\$

☐ Certified Mail Restricted Delivery

\$

☐ Adult Signature Required

\$

☐ Adult Signature Restricted Delivery

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Postage

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Total Postage and Fees

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

9/5/2025

TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

LEONARDO ARMS BEACH CLUB I
7404 ESTERO BLVD
FORT MYERS BEACH, FL 33931

Respondent.

Site Address: 7404 ESTERO BLVD Fort Myers Beach, FL 33931
Parcel Strap No.: 03-47-24-W4-02000-00CE

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NO ADDITIONAL NOTICE OF THE HEARING WILL BE PROVIDED TO YOU. If you fail to attend this hearing, the Code Enforcement Unit will proceed with the hearing.

Staples

Sep 5, 2025 5:49:23 PM

LEONARDO ARMS OFFICE



Sep 5, 2025 5:49:34 PM



FMBgov.com

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

9/5/2025

TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

LEONARDO ARMS BEACH CLUB I
7404 ESTERO BLVD
FORT MYERS BEACH, FL 33931

Respondent.

Case Number: 20241103

Certified Mail: 9589071052703142135064

Regular Mail: Standard 1st Class

Site Address: 7404 ESTERO BLVD Fort Myers Beach, FL 33931
Parcel Strap No.: 03-47-24-W4-02000-00CE

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FORT MYERS BEACH, ESTERO ISLAND

P. 239-765-0202 | F. 239-765-0909 | 2731 Oak Street, Fort Myers Beach, FL 33931

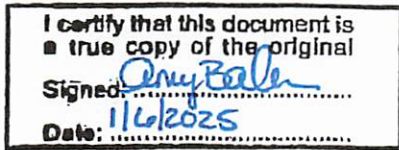
(Last 06/2024)

TOWN OF FORT MYERS BEACH
CODE COMPLIANCE

Sep 12, 2025 12:49:51 PM

Hearing Exhibit B

FEMA and Related Ordinances



U. S. Department of Homeland Security
Region 4
3005 Chamblee Tucker Road
Atlanta, GA 30341



FEMA

July 19, 2024

CERTIFIED MAIL RETURN RECEIPT REQUESTED

Andy Hyatt
Town Manager, Fort Myers Beach
2525 Estero Blvd
Fort Myers Beach, FL 33931

Re: National Flood Insurance Program Participation

Dear Mr. Hyatt:

I'd like to thank you and your staff for the long hours and hard work during the last two months to help correct the Town of Fort Myers Beach's compliance issues regarding the National Flood Insurance Program (NFIP). Our teams have made great progress in helping ensure Fort Myers Beach and their residents are more resilient and prepared for future storms.

Our team has completed its review of the town's compliance with the minimum floodplain management standards and everything that has been done to correct any deficiencies and violations.

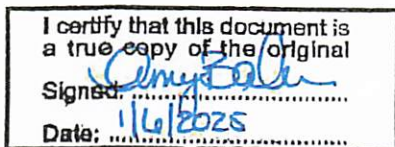
We acknowledge the work invested by your community has resulted in some improvements to meet minimum floodplain management standards. However, as the Town of Fort Myers Beach continues to recover from Hurricane Ian, FEMA finds that outstanding compliance issues remain. FEMA will not retrograde the town's class rating at this time.

Although FEMA will not retrograde the Town of Fort Myers Beach's class rating at this time, if the violations are not corrected or remedied by Nov. 18, FEMA's regulations (Title 44 Code of Federal Regulations 59.24(b) Suspension of Community Eligibility) require us to place the town on probation. This letter starts the official notification process. In addition, the town would no longer be eligible for Community Rating System participation and would be retrograded to Class 10 effective on April 1, 2025.

This letter and its attachments include FEMA's findings and our proposed next steps for the Town of Fort Myers Beach to remedy outstanding deficiencies and violations. These deficiencies and violations are described in the attached documents, specifically refer to the Status Report. To avoid probation in 121 days, the Town of Fort Myers Beach must correct deficiencies and remedy all identified violations to the maximum extent possible by Nov. 18.

You have my commitment of support as you work through these issues with your team.

www.fema.gov



A careful review of the data you provided since April shows that the implementation of the floodplain management program has several deficiencies that remain out of compliance. During the 60-day review period, the Town of Fort Myers Beach submitted additional permitting information for 105 structures in the floodplain.

Here is a summary of some of the items that the Town of Fort Myers Beach needs to remedy:

- Lack of permits for development in the Special Flood Hazard Area.
- Lack of maintaining permit records for development, new construction, or substantial improvements.
- Failure to make substantial improvement (SI) and substantial damage (SD) ("SI/SD") determinations.

FEMA staff reviewed each of the submitted permit packages and learned:

- 31% of the permit packages were complete.
- 20% need additional information.
- 2% needed a Community Assistance Visit follow up.
- 15% were ongoing in a Code Enforcement Case.
- 32% will be followed up on during a Future Compliance Engagement.

FEMA also found:

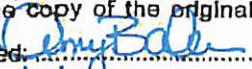
- 51 out of the 105 permit packages submitted did not include permits for structures that sustained documented damage.
- 76 of the 105 were missing itemized/detailed cost information for repair performed.
- 62 of the 105 had individual permits issued without total repair costs.

To avoid probation, the Town of Fort Myers Beach must complete the following items by close of business on Nov. 18. We encourage regular communication to share updates on your progress.

The town must remedy the following identified deficiencies:

1. Within 60 days of the date of this correspondence, September 16, 2024, develop and submit a plan that includes timelines and actions to address all identified program deficiencies and violations to the maximum extent possible.
2. Assess all floodplain development from Hurricane Ian in the Special Flood Hazard Area, ensuring that permits for all repairs, construction and development were obtained consistent with local floodplain management regulations:
 - a. From FEMA's April 8, 2024 letter:
 - i. Provide a status update for structures deemed Substantially Damaged on the list provided by the Town of Fort Myers Beach in accordance with the April 11, 2024, letter sent to the FEMA Region 4 Administrator.
 - ii. Provide evidence to support compliance action taken for the structures identified as having damage and FEMA identified as Future Compliance Engagement, Community Assistance Visit follow up, and additional information needed.

I certify that this document is
a true copy of the original

Signed: 

Date: 11/6/2025

- b. In addition to the above, provide an assessment of all floodplain development impacts from Hurricane Ian to structures in the Special Flood Hazard Area and provide a plan for remedying any identified violations.
3. Provide documentation that demonstrates your community is leveraging its code enforcement process to address new and existing code cases for all structures not confirmed as compliant. When a violation is confirmed, remedy to maximum extent possible. This includes:
 - a. In Item 2 above, structures identified during the evaluation as a Code Enforcement Case
 - b. Structures identified when assessing the Special Flood Hazard Area for all Hurricane Ian impacts to structures.
4. Put a process in place to ensure substantial damage compliance for future events.

You have my commitment to continue to support you and your team as you take the necessary compliance measures to avoid probation and possible suspension from the National Flood Insurance Program.

If you have any questions or at any time need technical assistance to address these issues, please contact FEMA Region 4 Office, Jacky Bell, Mitigation Division Director, at jacky.bell@fema.dhs.gov or 404-273-4710.

Sincerely,

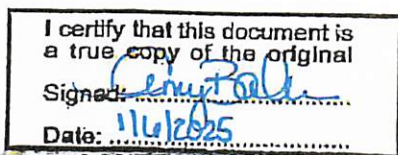


Robert D. Samaan
Regional Administrator

Attachments:

- Community Status Report
- Criteria for Avoiding Probation

cc: Kristin Schumacher, Floodplain Administrator
Jason Hunter, Region Floodplain Management & Insurance Branch Chief
Jillian Kraynak, Florida NFIP State Coordinator
Office of Sen. Marco Rubio
Office of Sen. Rick Scott
Office of Rep. Byron Donalds
Office of Rep. Greg Steube



FEMA

Town of Fort Myers Beach Post-Disaster Compliance Status Update Report

FEMA remains committed to helping communities take appropriate remediation actions to remain in good standing with the National Flood Insurance Program (NFIP) and participate in the Community Rating System (CRS).

The Town of Fort Myers Beach was granted 60 days (June 10, 2024), to submit to FEMA any new information related to the deficiencies and substantive violations detailed in FEMA's April 8, 2024 Findings Report. The April 8, 2024 Findings Report supported an initial decision by FEMA to retrograde the Town of Fort Myers Beach to a CRS class 10 community. In the Findings Report, FEMA also found program deficiencies and violations within the Town of Fort Myers Beach, which will serve as a basis for the current enforcement action and needed remediation.

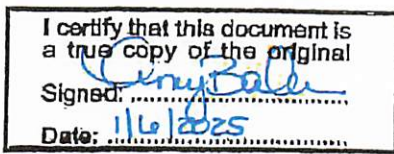
During the 60-day review period, the Town of Fort Myers Beach provided FEMA permit documentation for 105 sites. FEMA reviewed the submitted documentation, for the 105 sites as well as the Town of Fort Myers Beach's Narrative and supporting documentation.

After careful review of Town of Fort Myers Beach's submittal, FEMA finds that program deficiencies and substantive violations remain. Unfortunately, due to the deficiencies, the Town of Fort Myers Beach is being notified that they have until November 18, 2024 to address these deficiencies, or the Town will be placed on probation from the NFIP:

LIST OF PROGRAM DEFICIENCIES

Program Deficiencies are a defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of floodplain management regulations of the standards in 44 CFR 60.3; 60.4; 60.6; and NFIP Community Compliance Program Guidance, P-1022 (July 2016) in section 3.2.

- Failure of the community's "commitment to recognize and duly evaluate flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards in all official actions in the areas having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards and to take such other official action reasonably necessary to carry out the objectives of the program;" 44 CFR 59.22(8) and LDC CH 6, Art IV, Div 1, Sec 6-403(8).
- Failure to require permits for all proposed construction and development in the SFHA. 44 CFR 60.3(b)(1); 44 CFR 60.3(c)(1); 44 CFR 60.3(e)(1); FBC R101.2.1; FBC EB701.3; FBC 105.1; LDC CH 6, Art IV, Div 3, Sec 6-427; and LDC CH 6, Art IV, Div 6, Sec 6-461.
- Failure to maintain permit records for development, new construction, or substantial improvements in the SFHA. 44 CFR 59.22(a)(9)(iii); 44 CFR 60.3(b)(5)(iii); and 44 CFR 60.3(e)(2)(ii).
- Failure to make substantial improvement (SI) and substantial damage (SD) ("SI/SD") determinations and calculations for all proposed construction and development in the SFHA. 44 CFR 60.3(b)(1); 44 CFR 60.3(c)(1); 44 CFR 60.3(e)(1); LDC CH 6, Art IV, Div 3, Sec 6.428(1); and FEMA Substantial Improvement / Substantial Damage Desk Reference, P-758 (May 2010) ("SI/SD Desk Reference") in section 5.2.



- ✓ Failure to maintain SI/SD determination records for all proposed construction and development in the SFHA. 44 CFR 59.22(a)(9)(iii); 44 CFR 60.3(b)(5)(iii); 44 CFR 60.3(e)(2)(ii); and SI/SD Desk Reference in sections 4.2 and 7.7.
- ✓ Failure to keep records of permits, certifications, and variance actions. 44 CFR 59.22(a)(9)(iii).
- ✓ Failure to establish SI/SD procedures for administering and documenting determinations of SI/SD. LDC CH6, Art IV, Div 3, Sec 6.428(1) and FEMA Substantial Improvement / Substantial Damage Desk Reference, P-758 (May 2010) ("SI/SD Desk Reference") in sections 4.1, 4.3, & 7.1.
- ✓ Failure in permitting system, which allowed the use of "temporary" non-compliant structures (including shipping container and trailers/food trucks). LDC CH 6, Art IV, Div, 4, Sec 6.443 (3)&(4), LDC CH 6, Art IV, Div 6, and LDC CH 6, Art IV, Div 6, Sec 6.462, Sec 6.463, and LDC CH 6, Art IV Div 10, Sec 6-501.

1. Program deficiencies

Serious program deficiencies in a community's administrative and enforcement process and procedures are those that have resulted or could result in substantive violations that increase potential flood damages or stages in the community. The following deficiencies represent gaps in the Town's administrative process that restrict the ability to meet the minimum standards for participation.

Permitting of non-compliant structures/shipping containers/

Inconsistent Market Value	Missing Repair Permits (Known Damage (IA/Insurance))	Missing Detailed Cost Info	Low & Inadequate Labor Costs	Permits Issued Without Total Repair Costs	Failed To Capture Complete Scope of Work	After the Fact Permits	After the Fact Notice of Violation
1	51	76	8	62	65	16	25

2. List of properties determined to be substantially damaged:

The Town of Fort Myers Beach has submitted to FEMA a list of properties that Town of Fort Myers Beach deemed substantially damaged since the disaster; there were 356 structures listed. What actions has the Town taken or plan to take to follow-up on those structures? Please provide FEMA with a status of each structure to indicate how substantial damage is being addressed.

3. Non-compliant development

- a. Non-compliant structures (containers) and temporary structures have been placed in the Coastal High Hazard Area (VE zone and coastal A zone). Please provide a plan to remove the structures or bring the non-compliant structures or non-compliant additions into compliance; and confirmation that the town has stopped issuing permits for this type of non-compliant development.

b.

I certify that this document is a true copy of the original

Signed: Cheryl Baker

Date: 11/6/2023



4. Data Dictionary (revised) – “Status” Column Meanings:

Additional Information Needed – Permit package needs additional information to be considered complete.

CAV Follow-Up – Not a Hurricane Ian issue but found a need for additional information during the next compliance follow-up with the community.

Code Enforcement Case – Community is currently processing as a code enforcement case and FEMA will accept and review case updates, follow-up permit information, and/or enforcement actions occurring prior to June 10, 2024. Actions occurring beyond that time will require future compliance engagement.

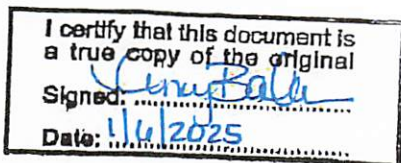
Complete – FEMA needs no further information regarding the specific address.

Future Compliance Engagement – Ian related activity. FEMA will follow-up on this site during the next compliance follow-up with the community.

5. Documentation on the Finding Report and Site list:

Attached to this document is a list of structures within the SFHA with violations, including the type of violation, status, and needed documentation.

Final Status (as of June 28, 2024)	Count
Additional Information Needed	21
CAV Follow-Up	2
Code Enforcement Case	16
Complete	32
Future Compliance Engagement	34
Grand Total	105



U.S. Department of Homeland Security
Washington, DC 20528



National Flood Insurance Program

Privacy Act Notice

RE: Town of Fort Myers Beach, FL, National Flood Insurance Program Data from the Federal Emergency Management Agency (FEMA)

The Town of Fort Myers Beach, FL is receiving data from the Federal Emergency Management Agency's that is maintained in support of the National Flood Insurance Program (NFIP). Specifically, the Town of Fort Myers Beach, FL is receiving property addresses identified by FEMA as possible violations to the local floodplain management laws and regulations. The community shall use the data to verify, monitor, and resolve the possible violation. As an NFIP participating community, this information will assist the community to ensure compliance with the NFIP and maintain the availability of flood insurance. FEMA will send the information to you securely via email on a password-protected spreadsheet or pdf.

FEMA discloses this to you pursuant to the "routine use" provision of the Privacy Act of 1974, 5 U.S.C. § 552a(b)(3), specifically under Routine Uses G, I, M, N, O, R and T of the System of Records Notice (SORN), DHS/FEMA-003 - National Flood Insurance Program Files 79 FR 28747 (May 19, 2014). The SORN may be electronically viewed at <https://www.gpo.gov/fdsys/pkg/FR-2014-05-19/html/2014-11386.htm>.

The Town of Fort Myers Beach, FL does not have permission to release the provided information to third parties, including third party contractors and will only use the data for the stated purpose. Unauthorized disclosure of FEMA data will result in an immediate denial of access to the FEMA data. Pursuant to the Privacy Act, 5 U.S.C. § 552a(e)(10), please destroy or return said personally identifiable information (PII) to FEMA once you no longer have use for it. PII is information that can be used to identify, by itself, or in combination, individuals by direct or indirect means.

In the event of a privacy incident resulting from this sharing of FEMA PII, Town of Fort Myers Beach, FL shall immediately, but in no event later than twenty-four (24) hours from suspicion, discovery or notification of the suspected or confirmed privacy incident, notify the FEMA Privacy Officer at (202) 212-5100 or FEMA-Privacy@fema.dhs.gov. FEMA will investigate the incident pursuant to DHS standard procedures and will consult the Town of Fort Myers Beach, FL to diagnose, mitigate and manage the privacy incident. The Town of Fort Myers Beach, FL will be responsible for carrying out all necessary measures to remedy the effects of the privacy incident.

By accepting the FEMA data, the Town of Fort Myers Beach, FL agrees that it shall bear all costs, losses and damages to the extent resulting from the City's breach of FEMA data. The Town of Fort Myers Beach, FL further agrees to release, defend, indemnify, and hold FEMA harmless for claims, losses, penalties and damages, and reasonable attorneys' fees and costs to the extent arising out of the Town of Fort Myers Beach, FL or its contractor's, negligence, unauthorized use or disclosure of FEMA PII and/or the Town of Fort Myers Beach, FL, or its contractor's, breach of its obligations under this sharing.

By accepting, receiving, downloading, or otherwise obtaining the routine use information or data discussed in this document, Town of Fort Myers Beach, FL understands, agrees, and accepts the terms of the use of the data as outlined in this document.

I certify that this document is
a true copy of the original

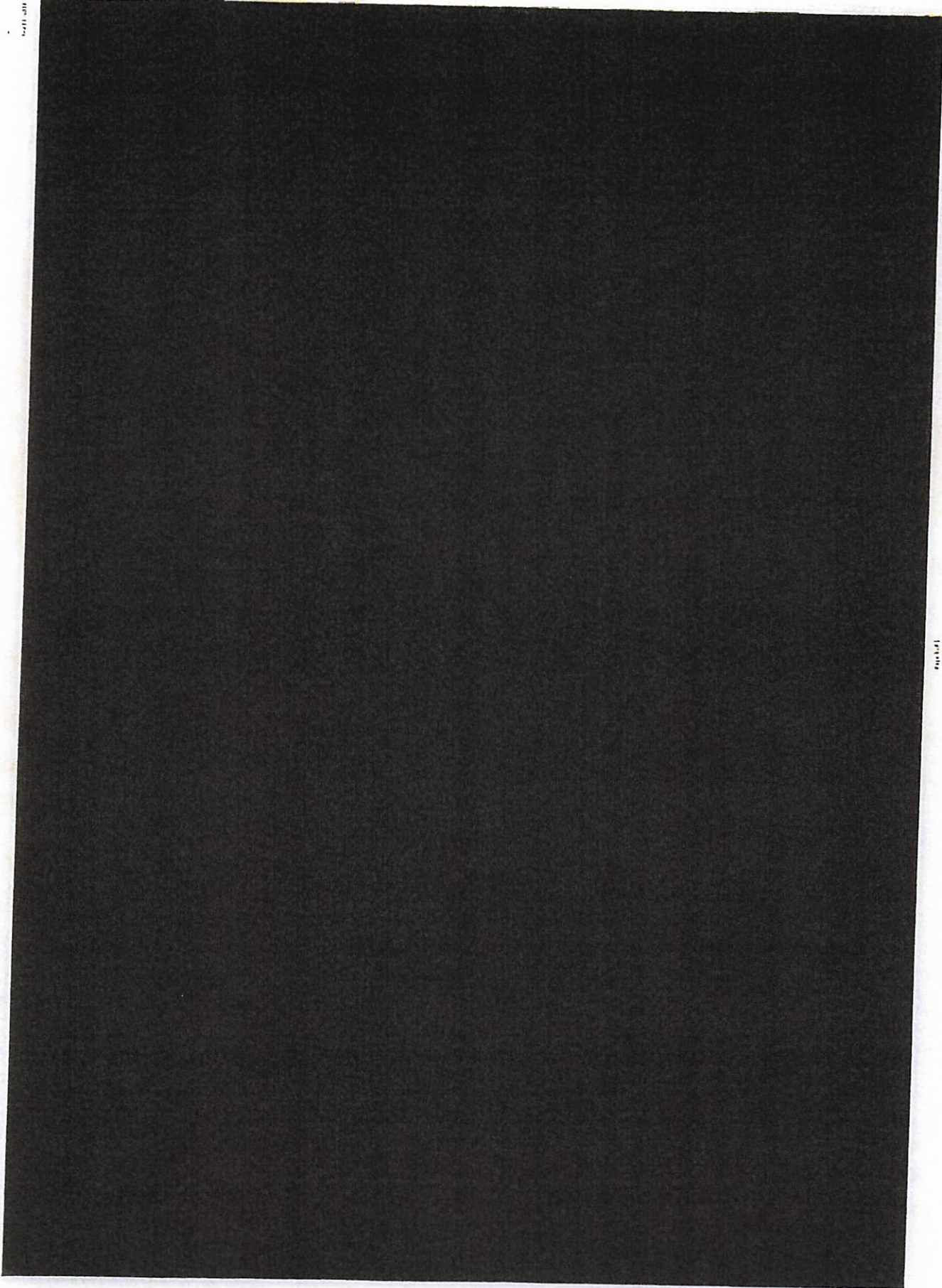
Signed: Crystal

Date: 11/6/2025

I certify that this document is
a true copy of the original

Signed: Cindy Baker

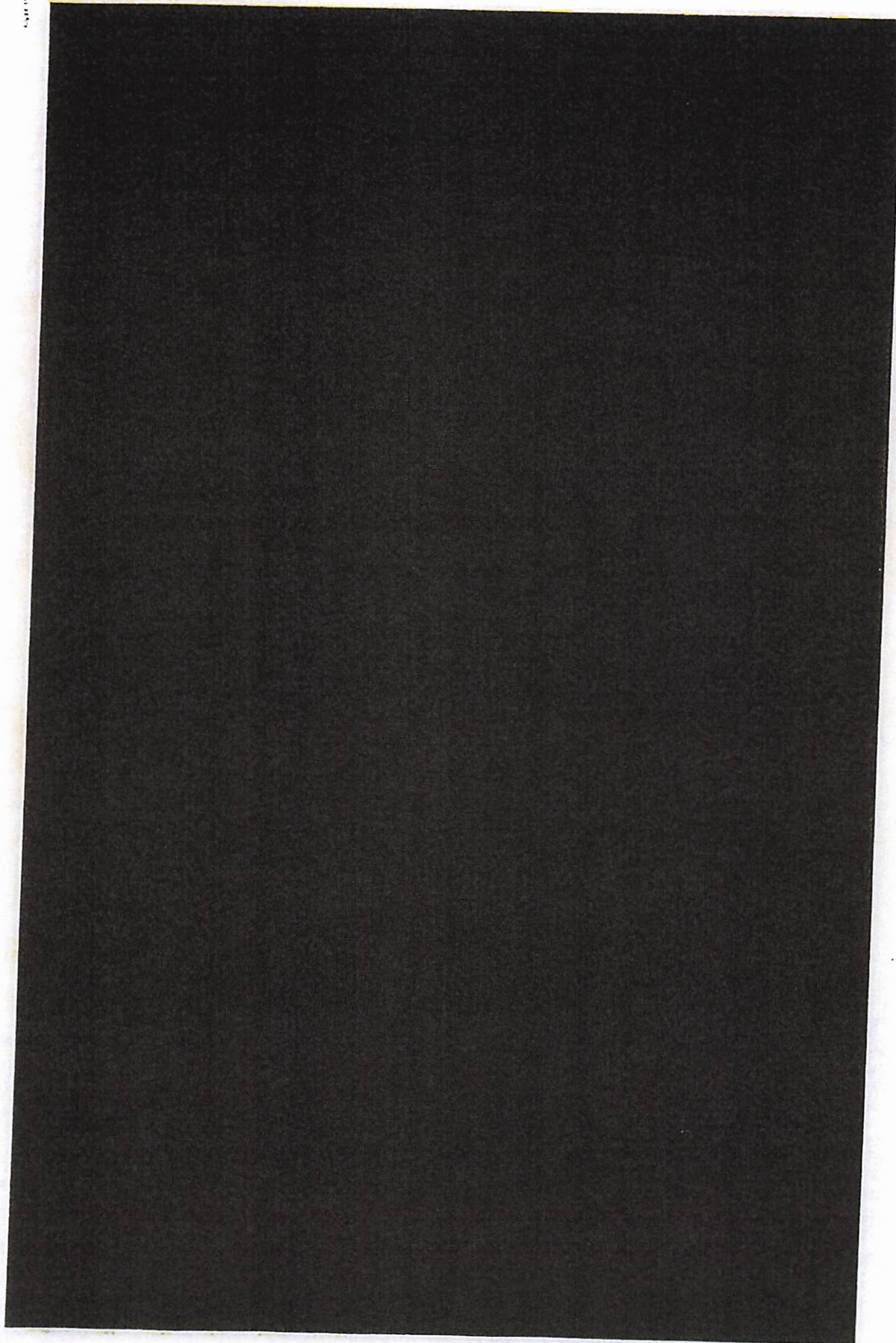
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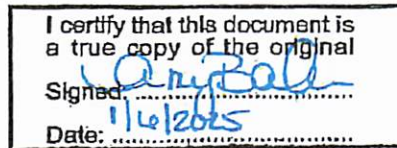


I certify that this document is
a true copy of the original

Signed: Cebal

Date: 11/6/2025





FMBgov.com

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

VIA CERTIFIED U.S. MAIL AND ELECTRONIC MAIL

November 1, 2024

Federal Emergency Management Agency (FEMA)
U.S Department of Homeland Security
Region 4
3005 Chamblee Tucker Road
Atlanta, Georgia 30341

Attn: Robert D. Samaan
Regional Administrator
FEMA Region IV

RE: Removal of Shipping Containers and Temporary Structures
Town of Fort Myers Beach Post-Disaster Compliance Report

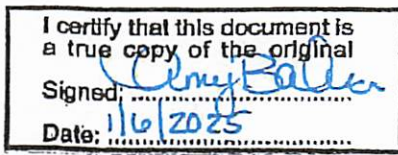
Dear Mr. Samaan,

The Town Council of the Town of Fort Myers Beach requested that we send this letter to you regarding the non-compliant structures (containers and temporary structures) in the Coastal High Hazard Area (VE zone and coastal A zone) referenced on page 2 of the Town of Fort Myers Beach Post-Disaster Compliance Status Update Report, dated July 19, 2024 ("Compliance Report"). The Compliance Report requires that the Town "provide a plan to remove the structures or bring the non-compliant structures or non-compliant additions into compliance" by November 18, 2024. The Town has been and continues to work diligently toward satisfying this requirement.

The most recent storms, Hurricanes Helene and Milton, have facilitated the removal of many of these containers and temporary structures. In fact, the recent removal of shipping containers and temporary structures as the impacts of these hurricanes threatened the Town, provided information regarding the ability to quickly disassemble

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | F. 239-765-0909 | 2731 Oak Street, Fort Myers Beach, FL 33931



and move shipping containers and temporary structures that was previously not available. For this reason, the Town Council gave direction to provide this information to you by letter.

More specifically, the owners of La Ola Surfside Restaurant, who use a 9'x 16' shipping container for a bar, were able to create a video demonstrating how quickly its shipping container could be disassembled and removed from its location on 1035 Estero Boulevard. The following is a link to the video, which has been widely circulated throughout the Fort Myers Beach Community.

https://drive.google.com/file/d/1vCBIleawpTJkXB1x877OIRInmTin2M8k9/view?usp=sharing_cil&ts=67237f46

La Ola Surfside Restaurant, as well as other businesses that temporarily operate out of shipping containers or other temporary structure, are important to the Fort Myers Beach community's recovery efforts immediately after these storms and since Hurricane Ian by providing a means to fulfill a basic human need: food.

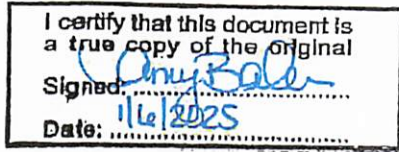
Moreover, as you are aware, the economy of a beach community such as Fort Myers Beach, is highly dependent on tourists, who visit the beach and support local businesses providing food service. In 2023-2024, the Town was awarded over \$1.5 million in tourist development dollars from the Lee County Tourist Development Board. These tourist dollars significantly assisted the Town with its recovery efforts post-Hurricane Ian and the delivery of municipal services to its residents.

In addition to tourists, the Town's economy is also highly dependent on its seasonal residents, who visit the Town from the fall through the end of spring each calendar year. Food service and other local businesses rely on the Town's seasonal residents as well as tourists to maintain operation during the winter season.

In view of the significant hardship on the operations of these businesses and the overall adverse economic impact on the Town, the Town is requesting your consideration to allow shipping containers and temporary structures, which are able to demonstrate that they can disassemble in a short period of time as evidenced in the La Ola Surfside Restaurant's video, to remain in place until June 1, 2025. An extension to June 1, 2025, would allow these local businesses to operate without interruption until the beginning of the next hurricane season.

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We appreciate your consideration of this request and look forward to discussing a limited extension of the November 18, 2024 deadline only for the removal of shipping containers and temporary structures, which can demonstrate the ability to quickly evacuate when a Hurricane Watch or Warning is issued to June 1, 2025. While this request is considered, the Town intends to continue its efforts achieve compliance with the November 18, 2024 deadline and removal of non-compliant shipping containers and temporary structures, such as La Ola Surfside Restaurant. Please do not hesitate to contact Frankie Kropacek, Operations & Compliance Director by phone at 239-955-3612 or by e-mail at fkropacek@fmbgov.com with any questions you may have. The Town looks forward to receiving a response to you regarding this request.

Sincerely,

Dan Allers, Mayor

Jim Atterholt, Vice Mayor

John R. King, Councilor

Karen Woodson, Councilor

Scott Safford, Councilor

Cc: Andrew Hyatt, Town Manager
Becky Vose, Town Attorney
Nancy Stuparich, Town Attorney
Amy Baker, Town Clerk
Frankie Kropacek, Operations & Compliance Director

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | F. 239-765-0909 | 2731 Oak Street, Fort Myers Beach, FL 33931

I certify that this document is
a true copy of the original

Signed: Carly Baker

Date: 11/6/2025

I certify that this document is
a true copy of the original
Signed: [Signature]
Date: 11/6/2025

U. S. Department of Homeland Security
Region 4
3005 Chamblee Tucker Road
Atlanta, GA 30341



FEMA

November 12, 2024

The Honorable Dan Allers
Mayor, Town of Fort Myers Beach
2731 Oak Street
Fort Myers Beach, FL 33931

Re: Removal of Shipping Containers and Temporary Structures Town of Fort Myers Beach Post
Disaster Compliance Report

Dear Mayor Allers:

I received the letter from the Fort Myers Beach Town Council requesting an extension for the removal of non-compliant shipping containers and temporary structures located in the Special Flood Hazard Area and Coastal High Hazard Area.

While I understand and appreciate the importance of these structures to the Town's economy and recovery, the Code of Federal Regulations that governs the National Flood Insurance Program defines the development in question as structures – not recreational vehicles. Because of this, the fact that the structures can be removed pre-event is not relevant as those conditions apply to recreational vehicles only. There are no regulations for temporary structures and occupancy which means all development in the Special Flood Hazard Area must meet the NFIP minimum standards and local floodplain management regulations. FEMA is not able to issue exemptions to the NFIP minimum standards nor extend the existence of non-compliant development.

The purpose of these regulations is to protect lives and property in the Special Flood Hazard Area. These non-compliant structures are in the most 'at risk' flood area, VE zone, also known as the Coastal High Hazard Area, which received a 14-foot storm surge during Hurricane Ian. Allowing these structures to remain in place presents a hazard to residents and businesses in the event of another storm as demonstrated by Hurricanes Helene and Milton. For these reasons I am unable to grant the Town's request to allow the structures in question to remain in place beyond the current deadline.

I certify that this document is a true copy of the original
Signed: <u>Jacky S. Bell</u>
Date: <u>11/6/2025</u>

You have my commitment to continue to support you and your team as you manage Hurricane Ian recovery and as you work to take the necessary compliance measures to avoid probation and possible suspension from the NFIP. If you have any questions or at any time need technical assistance to address these issues, please contact FEMA Region 4 Office, Jason Hunter, Floodplain Management and Insurance Branch chief, at Jason.hunter@fema.dhs.gov or 770-220-5471.

Sincerely,

Jacky S. Bell
Mitigation Division Director

cc: Kevin Guthrie, Executive Director, Florida Division of Emergency Management



FEMA

November 21, 2024

Andy Hyatt, Manager
Town of Fort Myers Beach
2731 Oak Street
Fort Myers Beach, FL 33931

Re: National Flood Insurance Program Participation

Dear Mr. Hyatt:

Once again, I'd like to thank you and your staff for the long hours and hard work during the last several months to correct the Town of Fort Myers Beach's issues regarding the National Flood Insurance Program (NFIP). Our teams have made great progress in helping ensure the city and their residents are more resilient and prepared for future storms.

On July 19, 2024, the Town received a letter from this office indicating the potential of being placed in probationary status with the NFIP if certain conditions were not met. These conditions consisted of five action items to be completed by November 18, 2024.

These action items were:

1. Develop and submit a plan that includes actions and timelines to address all identified program deficiencies and violations to the maximum extent possible.
2. Assess all floodplain development from Hurricane Ian in the Special Flood Hazard Area, ensuring that permits for all repairs, construction and development were obtained consistent with local floodplain management regulations.
3. Provide documentation that demonstrates your community is leveraging its code enforcement process to address new and existing code cases for all structures not confirmed as compliant.
4. Put a process in place to ensure substantial damage compliance for future events.
5. Remove noncompliant structures that were incorrectly permitted and should not have been placed in the Special Flood Hazard Area.

We appreciate that the Town of Fort Myers Beach accomplished the first and fourth action items by submitting a plan to address deficiencies and establishing a process to ensure substantial damage compliance for future events.

However, our teams have identified additional work that needs to occur for items 2, 3 and 5.

The crosswalk assessment tool created has not been completed by town officials which prevents both items 2 and 3 from being completed. For the 5th item, the town also did not remove non-compliant structures that were incorrectly permitted and should not have been placed in the Special Flood Hazard Area.

We acknowledge the work invested by you and your team has resulted in some improvements to meet minimum floodplain management standards. However, because of the outstanding compliance issues remaining, **the Town will be placed on probation with the National Flood Insurance Program effective November 18, 2024.**

During this probationary period, flood insurance coverage will remain available within the Town of Fort Myers Beach; however, a \$50 surcharge will be added to the premium of each new and renewed flood insurance policy sold within the community. Probation will remain in effect until all remaining program deficiencies and violations have been corrected to the maximum extent possible. Effective April 1, 2025, the town will be retrograded to a Class 10 in the Community Ratings System and policy premium discounts will not be applied to new or renewing policies. The Town is not eligible to reapply to the Community Rating System for a higher-class rating until the Town's probationary period is concluded, the Town is in full compliance with the minimum requirements of the National Flood Insurance Program, and at least two years has passed since the Town was placed in probationary status.

I am committed and I've instructed my staff that we will continue to provide technical assistance to Fort Myers Beach to meet the required program standards and potentially end probation as soon as practicable.

If you have any questions or at any time need technical assistance to address these issues, please contact FEMA Region 4 Office, Jacky Bell, Mitigation Division Director, at jacky.bell@fema.dhs.gov or 404-273-4710.

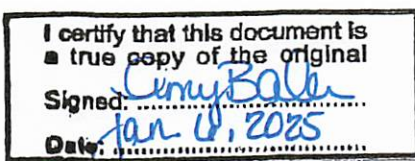
Sincerely,



Robert D. Samaan
Regional Administrator

cc:

Jason Hunter, Region Floodplain Management & Insurance Branch Chief
Jillian Kraynak, Florida NFIP State Coordinator



RESOLUTION NUMBER 24-296

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA ADOPTING A RESOLUTION TO REVOKE AND RESCIND EMERGENCY TEMPORARY PLACEMENT PERMITS AS PROVIDED AND AUTHORIZED IN SECTION 2 OF ORDINANCE 24-4 OF THE TOWN OF FORT MYERS BEACH, WHICH CLARIFIED ORDINANCE 23-05 RELATED TO TEMPORARY PLACEMENT PERMITS, IN FURTHERANCE AND IN SATISFACTION OF DIRECTION CONTAINED IN A LETTER DATED NOVEMBER 21, 2024 FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY ("FEMA") MANDATING REMOVAL OF NONCOMPLIANT STRUCTURES THAT WERE INCORRECTLY PERMITTED IN THE SPECIAL FLOOD HAZARD AREA, IN ORDER TO COMPLY WITH MINIMUM FLOODPLAIN STANDARDS AND THE REQUIREMENTS OF THE NATIONAL FLOOD INSURANCE PROGRAM; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article VIII, Section 2 of the State Constitution and Chapter 166 of the 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 services, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter empowers the Town Council to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, on September 28, 2022, Hurricane Ian made landfall north of the Town causing historical property damage and loss of life; and

WHEREAS, the Town Council recognized that recovery from a devastating natural disaster such as Hurricane Ian, created an immediate need for temporary housing, governmental services, and commercial uses for the Town's residents and adopted Ordinance 23-05 on May 15, 2023 to provide a temporary relief and the placement of certain structures in the Special Flood Hazard Area; and

WHEREAS, on May 6, 2024 the Town Council adopted Ordinance 24-04 amending and restating Ordinance 23-05 to clarify its intent at the time of adoption and to continue to provide temporary assistance to residents and to aid in the Town's redevelopment efforts by the emergency temporary placement of structures governmental, residential (manufactured homes, mobile homes, motor homes, recreational vehicles, or other temporary residential dwellings) or moveable commercial use; and

WHEREAS, both ordinances provided that permits issued under either Ordinance would be issued in increments of 6 months and would not exceed 18 months without demonstration of a hardship to the Town Manager; and

WHEREAS, Section 2 of Ordinance 24-04 further clarified that the Town Council intended permitted uses to be temporary in nature, and thereby subject to revocation and rescission at a future date under certain circumstances. More specifically, Paragraph 2 of Ordinance 24-04 identified several circumstances in which these temporary permitted uses required removal:

Unless otherwise provided in this Ordinance or in a Resolution that is adopted hereinafter 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 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. (Emphasis added).

WHEREAS, Section 2 of Ordinance 24-04(xi) also provided that the issued permit could be revoked for "noncompliance with applicable federal law/regulation, state law and town code"; and

WHEREAS, the number of outstanding temporary permits approved by the Town has decreased as a result of additional hurricanes impacting the Town subsequent to Hurricane Ian, the permitted rebuilding of destroyed properties; and the voluntary removal of the temporary permitted uses; and

WHEREAS, on July 19, 2024 and September 3, 2024, the Town was notified by the Federal Emergency Management Administration ("FEMA") that the Town would be placed on permanent probation from participation in the National Flood Insurance Program if it allowed structures needed for these temporary uses to continue subsequent to November 18, 2024 in the Special Flood Hazard Area; and

WHEREAS, Section 6-494 of the Town of Fort Myers Beach Land Development Code defines the Special Flood Hazard Area as "[a]n area in the floodplain subject to a one- percent or greater chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V. [Also defined in FBC, B Section 202.]", which in effect encompasses the entirety of the Town; and

WHEREAS, despite efforts by the Town Council to extend the November 18, 2024 FEMA deadline, the Town was notified by letter on November 21, 2024, that the Town was placed on probation with the National Flood Insurance Program effective November 18, 2024 in part due to its failure to "[r]emove noncompliant structures that were incorrectly permitted and should not have been placed in the Special Flood Hazard Area"; and

WHEREAS, in order to comply with minimum floodplain standards and the requirements of the National Flood Insurance Program, the Town must now revoke and rescind emergency temporary placement permits which allow noncompliant structures in the Special Flood Hazard Area; and

WHEREAS, the definition of a "structure" for floodplain management purposes pursuant to 44 CFR Part 59.1 includes "any walled and roofed building, manufactured home or travel trailer without wheels," and

WHEREAS, the definition of a "manufactured home" for floodplain management purposes pursuant to 44 CFR 59.1 is "a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle"; and

WHEREAS, adoption of this Resolution is in the best interest of the residents of the Town as a step towards removal of its probationary status in the National Flood Insurance Program and compliance with its floodplain regulations.

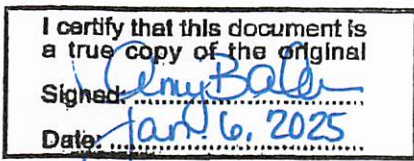
NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

Section 1. The foregoing "Whereas" clauses are ratified and confirmed as being true and correct, are the legislative and administrative findings of the Town Council and are made a specific part of this Resolution.

Section 2. All emergency temporary placement permits for "noncompliant structures that were incorrectly permitted and should not have been placed in the Special Flood Hazard Area" are hereby revoked and rescinded.

Section 3. The Town Manager is directed and authorized to immediately take the following actions to implement this Resolution:

1. Provide formal Notice to holders of any emergency temporary placement permit by certified mail, posting on the property and any other known method for notification that:
 - a) the permit is revoked and rescinded as of December 16, 2024; and
 - b) the permit holder may appeal this revocation action pursuant to Section 34-86 of the Code of Ordinances as stated in Section 4 of Ordinance 24-04, or by any other lawful means; and
 - c) the contact information for a member of the Town staff, who can answer questions and provide more information.



The Notice shall also include a copy of this Resolution and FEMA's letter of November 21, 2204

2. Initiate or continue any needed code enforcement action against permit holders who fail to immediately begin removal of noncompliant structures.

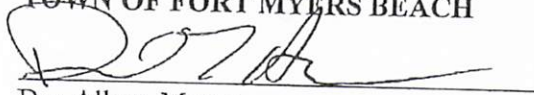
Section 4. This Resolution shall take effect immediately upon its adoption by the Town Council of the Town of Fort Myers Beach.

THE FOREGOING RESOLUTION was adopted by the Town Council upon motion by Mayor Allers and seconded by Vice Mayor Atterholt, and upon being put to a vote, the result was as follows:

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

APPROVED AND ADOPTED this 16th day of December 2024, by the Town Council of the Town of Fort Myers Beach, Florida.

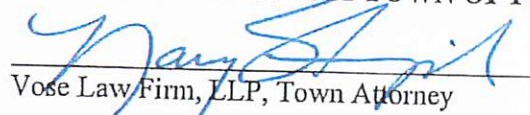
TOWN OF FORT MYERS BEACH


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, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 16th day of December 2024.



FEMA

July 24, 2025

The Honorable Will McKannay
Town Manager, Town of Fort Myers Beach
6231 Estero Blvd
Fort Myers Beach, FL 33931

Reference: National Flood Insurance Program (NFIP) Community Assistance Visit (CAV)
Report of Findings

Dear Mr. McKannay:

The purpose of this letter is to provide you with our findings from the CAV that the Federal Emergency Management Agency (FEMA) conducted from Tuesday, July 15, 2025, to Thursday, July 17, 2025. Thank you for the courtesy extended to Tamara Hansen, Pier Janrhett and Yuzzeff Henderson of FEMA Region 4 and Scott Gaines, of the Florida Department of Emergency Management (FDEM).

An introductory meeting was held by FEMA Specialists Tamara Hansen, Pier Janrhett, Yuzzeff Henderson Melendez, Scott Gaines with FDEM, yourself and members of the Town of Fort Myers Beach staff including Thomas Yozzo, Tracie Kohler, Kelly Defedericis, Frankie Kropacek, Georgina Cid, Shanette Thomas and Traci Raski. FEMA Region 4 Staff, Jacky Bell and Jason Hunter, Mr. Michael Burchette (FDEM) attended virtually. As stated during the meeting, we are very appreciative of the Town's efforts to prepare for the CAV and extended attendance of your staff for the duration of the CAV.

The purpose of this visit was to determine if the Town of Fort Myers Beach's floodplain management program is compliant with the minimum requirements of the National Flood Insurance Program. During this visit, outstanding sites identified in the Community Rating System (CRS) Retrograde appeal process in April 2024, were discussed. These sites were originally identified during field tours conducted in October and November 2023, following technical assistance visits after Hurricane Ian. During the permit reviews conducted as part of the CRS Retrograde appeal process, FEMA personnel identified various actions that were in violation of the Town's floodplain management program resulting in the community's probation from the National Flood Insurance Program. Subsequently, the Town was retrograded in CRS, effective April 1, 2025.

On April 28, 2025, the Town was notified that the requirement to be removed from probation under the NFIP had been met, effective November 18, 2025.

During the CAV, the Town of Fort Myers Beach's floodplain management program and the floodplain development permit process were reviewed and discussed. Additionally, a field tour was conducted to capture potential violations in the floodplain.

We have reviewed the Town's floodplain management regulations in Ordinance 24-03 and found that it meets the minimum requirement of the National Flood Insurance Program. We didn't find language adopting Limit of Moderate Wave Action requirements beyond the Florida Building Code, nor the state's accessory language which is based upon FEMA Policy #104-008-03. Please contact Scott Gaines at scott.gaines@em.myflorida.com if the Town is interested in adopting language related to either of these topics.

During the visit, the following programmatic deficiencies were identified and must be resolved:

1. Substantial Damage/Substantial Improvement Determination Process

○ *Concerns:*

- During the permit documentation review, evidence showed that permits were issued prior to a Substantial Damage/Substantial Improvement determination having been made by the Town, resulting in non-compliant structures that were potentially Substantial Damaged/Substantial Improved and repaired without being brought into compliance with the Town's floodplain management regulations.
- Additionally, the permitting staff who reviewed and issued permits didn't have access to Substantial Damage determinations list, which lead to permits being issued for structures that had been deemed to be Substantially Damaged, without ensuring the structures were brought into compliance with the Town's floodplain management regulations.
- Some of the cost to repair estimates seem to only include costs to repair damages located below the base flood elevation.
- In the Town's Substantial Damage Management Plan, November 2024-Draft, *Cost of Work Verification – Pre-Permit Issuance* section, it indicates that verification of repairs and associated cost to repair the structure will be accounted for before issuing a building permit.
-

○ *Corrective actions require:*

- On or before August 8, 2025, provide a Standard Operating Procedure that documents the Substantial Damage/Substantial Improvement Determination Process and the permitting process. This should include how determinations are shared with staff who process permit applications.

2. Floodplain reviews related to Private Providers

○ *Concerns:*

- The Town requires Under Construction Elevation Certificates to be submitted and approved, before the building's construction goes vertical.
- Private providers aren't complying with this requirement. Permits that were reviewed for documented structures well beyond this tie-beam inspection that had failed to submit Under Construction Elevation Certificates.
- Failure to take corrective actions can result in non-compliant structures being identified after construction has been completed.

○ *Corrective actions require:*

- On or before August 8, 2025, provide revised permitting process procedures and any supporting documentation that addresses failure by the Private Providers to meet the Town's requirement for submittal of the Under Construction Elevation Certificate.

3. The Town adopted the following ordinances to allow temporary placement of various types of units: "Temporary Placement of Emergency Uses, Manufactured Homes, Mobile Homes, Motor Homes, Recreational Vehicles Other Temporary Residential Dwelling or Temporary Moveable Commercial Units" (Ordinance 23-05), "Temporary Governmental, Residential (Manufactured Homes, Mobile Homes, Motor Homes, Recreational Vehicles Other Temporary Residential Dwellings) or Movable Commercial Uses following Natural Disasters or Other Emergencies" (Ordinance 24-04), and "RESOLUTION TO REVOKE AND RESCIND EMERGENCY TEMPORARY PLACEMENT PERMITS" (Resolution Number 24-296).

▪ *Concerns:*

- Ordinance 23-05 and 24-04 authorized installation of non-compliant temporary units.
- Resulted in numerous non-compliant temporary units. Some have been removed, while others are still present.
- Resolution Number 24-296 (approved December 16, 2024) "mandated removal of noncompliant structures that were incorrectly permitted," but numerous noncompliant structures remain in place.

▪ *Corrective actions require:*

- On or before August 8, 2025, remove the non-compliant temporary structures.

During the field tour, data for 252 sites was collected. The list of addresses includes sites that fall into the following categories: 1) non-compliant structures that need to be mitigated, 2) structures that require additional documentation to determine compliance, and 3) temporary structures that need to be elevated and anchored or removed. The list of site addresses with the required action/documentation are in the attached Site List.

Following the field tour, an exit meeting was held with the Town, FEMA, and FDEM staff on July 17, 2025. FEMA's findings of the community's floodplain management program and the floodplain development permit process were discussed. As stated in the meeting, we ask that you review each program deficiency and the attached site list. The deadline to submit the requested documents or documented actions is August 8, 2025.

We recommend that the staff who support the administration and enforcement of the Town's floodplain management program, including code enforcement staff, also attend floodplain management training courses. FEMA's National Disaster and Emergency Management University (NDEMU) and the Florida Floodplain Managers Association (FFMA) offer various floodplain management-related training courses for local officials. For your convenience, web addresses for NDEMU's and FFMA's website are provided below:

www.training.fema.gov
flfloods.org

We appreciate the Town of Fort Myers Beach's commitment to administering the NFIP. We would like to remind you that the requirement for participation in the CRS is your community's full compliance with the NFIP. Again, we request that the Town provide the requested documentation by August 8, 2025, for consideration of reinstatement to the CRS program on April 1, 2026. If your staff members have questions or require additional information, Ms. Tamara Hansen may be reached by telephone at (770) 220-5288 or by e-mail at tamara.hansen@fema.dhs.gov and Pier Janrhett may be reached by telephone at (202) 826-5655 or by e-mail at pier.janrhett@fema.dhs.gov.

Sincerely,

Jacky S. Bell
Director
Mitigation Division

Attachment: Site List

Cc: Ms. Jillian Kraynak, Florida NFIP State Coordinator
Ms. Traci Kohler, Deputy Town Manager, Town of Fort Myers Beach
Ms. Kelli Defedericis, Floodplain Administrator, Town of Fort Myers Beach
Mr. Tom Yozzo, Emergency Services Director, Town of Fort Myers Beach
Mr. Frankie Kropacek, Operations & Compliance Director, Town of Fort Myers Beach

HEARING

EXHIBIT

C

- Notice of Violation



Town of Fort Myers Beach

CODE COMPLIANCE

2731 Oak Street Fort Myers Beach, FL 33931

Phone: (239) 765-0202 Fax: (239) 765-0909

11/19/2024

Case Number:	20241103
Certified Mail:	9589071052700183636444
Regular Mail	

LEONARDO ARMS BEACH CLUB I
7400 ESTERO BLVD
FORT MYERS BEACH, FL 33931

SITE ADDRESS: 7404 ESTERO BLVD
PARCEL STRAP NO: 034724W40200000CE

NOTICE OF VIOLATION

YOU ARE HEREBY NOTIFIED that an inspection of the above-referenced property on by Town of Fort Myers Beach Code Enforcement Officer Thomas Yozzo indicates that the following items are in violation:

For the keeping and/or maintaining of non-compliant structure(s) and/or shipping containers on property, which are not built to current flood design codes in the Special Hazard Areas as defined in Section 6-494 of the FMB Code of Ordinances.

These items are a violation of the following Town Codes:

ASCE 24-14 A copy is available at https://www.fema.gov/sites/default/files/2020-07/asce24-14_highlights_jan2015.pdf

Sec. 6-501. - Design and construction of buildings, structures and facilities exempt from the Florida Building Code. Pursuant to section 6-443, buildings, structures and facilities that are exempt from the Florida Building Code, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, must be designed and constructed in accordance with the flood load and flood-resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that are not walled and roofed buildings must comply with the requirements of division 10, subdivision VII.

Sec. 6-525. - General requirements for other development. All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this article or the Florida Building Code, must:

(1)Be located and constructed to minimize flood damage;(2)Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;(3)Be constructed of flood damage-resistant materials; and(4)Have mechanical, plumbing and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

COMPLIANCE:

The following action is needed to bring the violation(s) into compliance. 1) Remove Structure(s) and/or Shipping Containers from property. 2) Provide proof of compliance with the requirements of Chapter 6, Article IV Division Section 6-501 and 5-525 of the Land Development Code.

You are hereby directed to bring these violations into compliance within 30-days.

ONCE THIS VIOLATION(S) IS (ARE) IN COMPLIANCE, IT IS YOUR OBLIGATION TO NOTIFY CODE ENFORCEMENT SO THAT THE PROPERTY CAN BE INSPECTED TO VERIFY THAT THE VIOLATION(S) HAS (HAVE) BEEN CORRECTED ON OR BEFORE THE ABOVE-SPECIFIED COMPLIANCE DATE.

If you fail to correct the violation(s) by the date specified above, or if the violation(s) is (are) brought into compliance and reoccur(s), the case may be scheduled for hearing before the Town of Fort Myers Beach Special Magistrate. The Code Enforcement Division may, in their discretion, schedule the case for

a hearing and seek a finding of a violation by the Special Magistrate even if you have corrected the violation prior to the time set for the hearing.

You will be provided with a Notice of Hearing specifying the date, time and location of the hearing if, one is scheduled. Please be aware that under Florida Statutes, Chapter 162 and Town of Fort Myers Beach Land Development Code, Section 2-427(b), a fine of up to \$250.00 per day for the first violation or \$500.00 per day for a repeat violation may be imposed for each day the violation continues to exist past the date set for compliance by the Special Magistrate. If the Special Magistrate finds that a violation is irreparable or irreversible in nature, a fine of up to \$5,000.00 per violation may be imposed. The Special Magistrate may also assess the costs of prosecution of the case against you and you may be required to pay those fees, even if the violation has been corrected prior to the hearing.

Please contact the Town of Fort Myers Beach Code Enforcement Division at 239-292-3568 or code@fmbgov.com if you have any questions concerning this Notice of Violation.

Respectfully,

Thomas Yozzo
Code Enforcement Officer
Town of Fort Myers Beach



TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

LEONARDO ARMS BEACH CLUB I
7400 Estero Blvd
Fort Myers Beach, FL 33931

FMB Case Number:	20241103
Certified Mail:	9589071052703142135064
Regular Mail:	Standard 1st Class
Magistrate Case Number:	Not Assigned

Site Address: 7404 Estero Blvd
Fort Myers Beach, FL 33931
Parcel Strap No. 034724W40200000CE

Respondent,

AFFIDAVIT OF NOTICE AND POSTING

STATE OF FLORIDA
COUNTY OF LEE

BEFORE ME, the undersigned authority, personally appeared Thomas Yozzo, who is the Emergency Services Director for the Town of Fort Myers Beach, who was sworn and under oath, deposes and says the following regarding case #20241103 that certain Notice of Code Violation. Presented as Hearing Exhibit A ("The Notice")



I personally mailed by certified mail & first-class service a copy of the Notice of Violation to the following:

- a. Leonardo Arms Beach Club I
7400 Estero Blvd
Fort Myers, FL 33931
Certified Mail No.9589071052703142135064
(Listed Leepa.org / Lee County Tax Collector Property Owner Address)

b. N/A

Certified Mail No.
(Alternative Listed Mailing Address)

c. N/A

Certified Mail No.
(Registered Agent for Company)

Copies of the certified mailing receipts are attached in Hearing Exhibit A.

1. I posted a copy of the Notice at 7404 Estero Blvd, Fort Myers Beach, FL 33931, which is the subject property. I took photographs of the Notice I posted on the 19th day of November 2024. A true, accurate and unaltered copy of the photographs are attached in Hearing Exhibit A.
2. I posted a copy of the Notice at the primary municipal government office for the Town of Fort Myers Beach, which is Town Hall and located at 2731 Oak St, Fort Myers Beach, FL 33931. True, accurate and unaltered copies of photographs I took of the Notice posted on the 19th day of November 2024 are attached in Hearing Exhibit A.

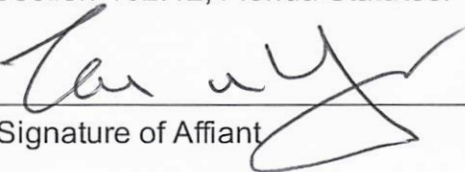
FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | 2731 Oak Street, Fort Myers Beach, FL 33931



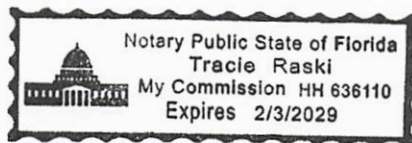
3. In addition, I posted a copy of the Notice on the Town's publicly accessible website at <https://www.fortmyersbeachfl.gov/1294/Public-Notices> on the 19th day of November 2024. A copy of the posted webpage is attached as Evidence in Hearing Exhibit A.

Under penalties of perjury, I declare that I have read the foregoing affidavit and that the facts stated in it are true and to the best of my knowledge and belief comply with Section 2-429 of the Town Land Development Code and Section 162.12, Florida Statutes.

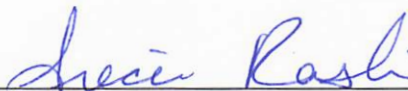
x 
Signature of Affiant

**STATE OF FLORIDA
COUNTY OF LEE**

The foregoing instrument was sworn to, subscribed and acknowledged before me by means of either ☒ [X] personal presence or ☐ [] online notarization this 19 day of November, 2024, by T Yozzo. They ☒ [X] are personally known to me or ☐ [] has produced _____ as identification.



[Notary Seal]


Notary Public, State of Florida
Print Name: Tracie Raski
My Commission Expires: 2/3/2029

9589 0710 5270 0183 6364 44

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com

OFFICIAL USE

Certified Mail Fee

Extra Services & Fees (check box, add fee as appropriate)
☐ Return Receipt (hardcopy)
☐ Return Receipt (electronic)
☐ Certified Mail Restricted Delivery
☐ Adult Signature Required
☐ Adult Signature Restricted Delivery

Town of Fort Myers Beach

Postmark
Here

Sent by:

2024/10/3

Postage

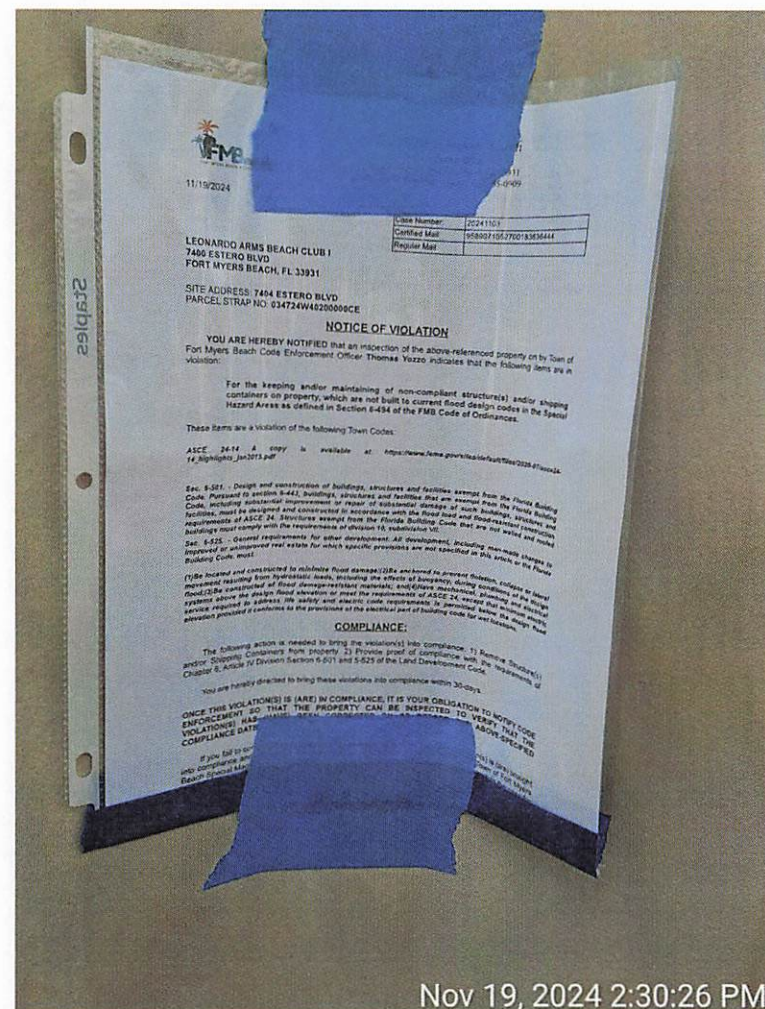
Total Postage and Fees

7404 Estero Blvd

LEONARDO ARMS BEACH CLUB I
7400 ESTERO BLVD
FORT MYERS BEACH, FL 33931

PS Form 3800, January 2023 PSN 7530-02-000-9001 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature X <i>Damon Curo</i> ☒ Agent ☐ Addressee	
LEONARDO ARMS BEACH CLUB I 7400 ESTERO BLVD FORT MYERS BEACH, FL 33931		B. Received by (Printed Name) <i>Demaris Crespo</i>	C. Date of Delivery <i>11/22/24</i>
 9590 9402 8344 3094 9345 15		D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☒ No <i>2024/1103 7404 Estero Blvd</i>	
Article Number (Transfer from service label) 9589 0710 5270 0183 6364 44		3. Service Type ☐ Adult Signature ☐ Priority Mail Express® ☐ Adult Signature Restricted Delivery ☐ Registered Mail™ ☐ Certified Mail® ☐ Registered Mail Restricted Delivery ☐ Certified Mail Restricted Delivery ☐ Signature Confirmation™ ☐ Collect on Delivery ☐ Signature Confirmation Restricted Delivery ☐ Collect on Delivery Restricted Delivery ☐ Insured Mail ☐ Insured Mail Restricted Delivery (over \$500)	
PS Form 3811, July 2020 PSN 7530-02-000-9053		Domestic Return Receipt	

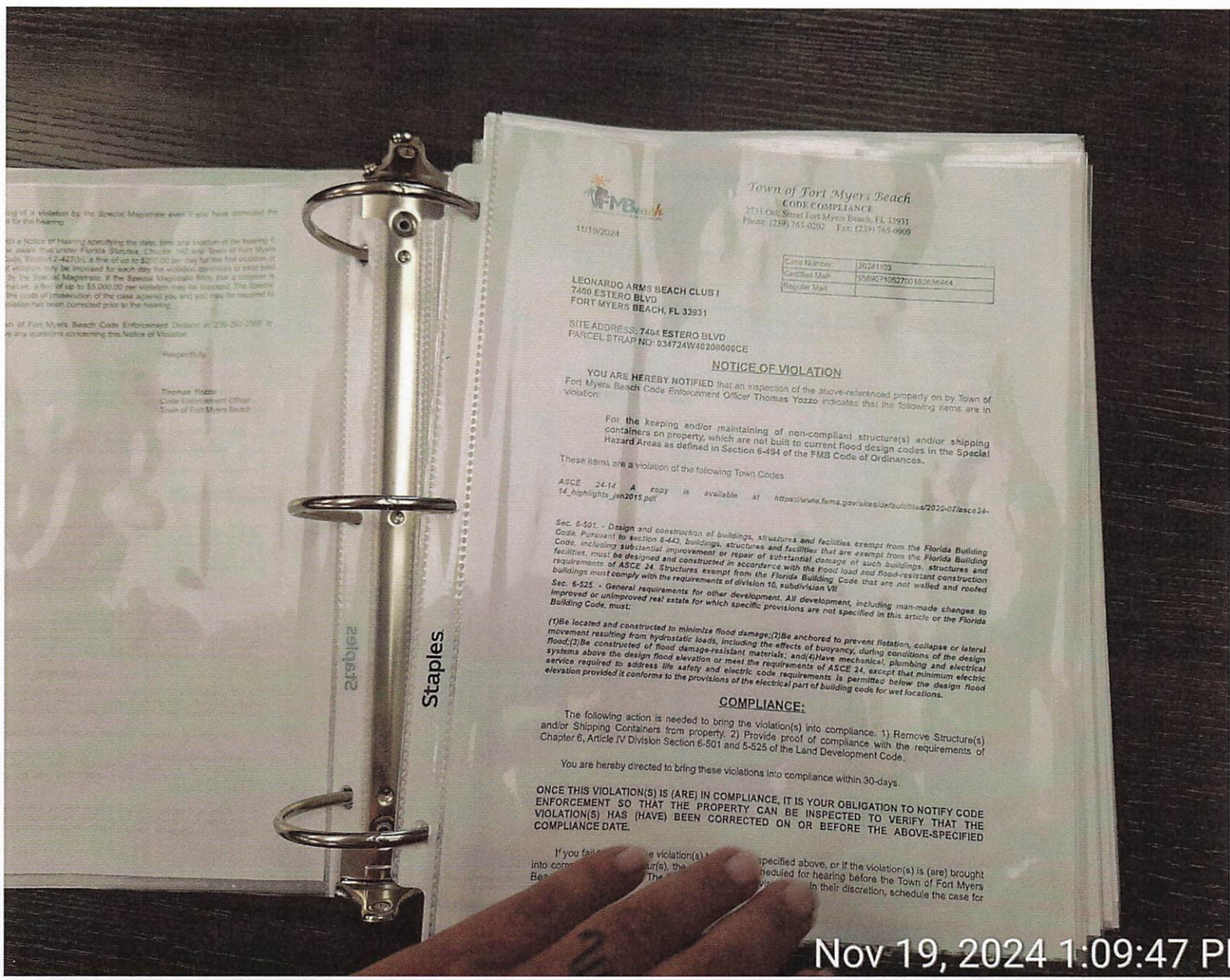




Leonardo Arms Beach Club I



Leonardo Arms Beach Club I



11/19/2024

Town of Fort Myers Beach
CODE COMPLIANCE
2711 Oak Street Fort Myers Beach, FL 33931
Phone: (239) 765-0292 Fax: (239) 765-0909

Cong Number:	20241103
Certified Mail:	958607K0527001836664
Regular Mail:	

LEONARDO ARMS BEACH CLUB I
7400 ESTERO BLVD
FORT MYERS BEACH, FL 33931

SITE ADDRESS: 7404 ESTERO BLVD
PARCEL STRAP NO: 034724W40200000CE

NOTICE OF VIOLATION

YOU ARE HEREBY NOTIFIED that an inspection of the above-referenced property on by Town of Fort Myers Beach Code Enforcement Officer Thomas Yozzo indicates that the following items are in violation:

For the keeping and/or maintaining of non-compliant structure(s) and/or shipping containers on property, which are not built to current flood design codes in the Special Hazard Areas as defined in Section 6-494 of the FMB Code of Ordinances.

These items are a violation of the following Town Codes:

ASCE 24-14 A copy is available at https://www.fema.gov/sites/default/files/2020-07/asce24-14_highlights_jan2015.pdf

Sec. 6-501. - Design and construction of buildings, structures and facilities exempt from the Florida Building Code. Pursuant to section 6-442 buildings, structures and facilities that are exempt from the Florida Building Code, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, must be designed and constructed in accordance with the flood load and flood-resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that are not walled and roofed buildings must comply with the requirements of division 10, subdivision VI.

Sec. 6-525. - General requirements for other development. All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this article or the Florida Building Code, must:

(1)Be located and constructed to minimize flood damage;(2)Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;(3)Be constructed of flood damage-resistant materials; and(4)Have mechanical, plumbing and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

COMPLIANCE:

The following action is needed to bring the violation(s) into compliance. 1) Remove Structure(s) and/or Shipping Containers from property. 2) Provide proof of compliance with the requirements of Chapter 6, Article IV Division Section 6-501 and 5-525 of the Land Development Code.

You are hereby directed to bring these violations into compliance within 30-days.

ONCE THIS VIOLATION(S) IS (ARE) IN COMPLIANCE, IT IS YOUR OBLIGATION TO NOTIFY CODE ENFORCEMENT SO THAT THE PROPERTY CAN BE INSPECTED TO VERIFY THAT THE VIOLATION(S) HAS (HAVE) BEEN CORRECTED ON OR BEFORE THE ABOVE-SPECIFIED COMPLIANCE DATE.

If you fail to bring the violation(s) into compliance within the specified time period, or if the violation(s) is (are) brought into compliance after the specified time period, the case will be scheduled for hearing before the Town of Fort Myers Beach Code Enforcement Officer. In their discretion, schedule the case for

Nov 19, 2024 1:09:47 P

HEARING

EXHIBIT

D

- Status of Compliance



FMBgov.com

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

01/15/2025

**TOWN OF FORT MYERS BEACH,
Petitioner,**

vs.

LEONARDO ARMS BEACH CLUB I

Respondent.

Site Address: 7400 ESTERO BLVD
Parcel Strap No.: 03-47-24-W4-02000.00CE

Case Number:	20241103
Certified Mail:	
Regular Mail:	

AFFIDAVIT OF NON - COMPLIANCE

**STATE OF FLORIDA)
COUNTY OF LEE)**

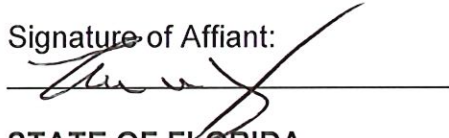
BEFORE ME, the undersigned authority, personally appeared Thomas Yozzo, Code Enforcement Director for the Town of Fort Myers Beach, FL, who after being duly sworn, deposes and says:

1. I, Thomas Yozzo, am a person authorized by law to inspect violations of the Town of Fort Myers Beach Code contained herein and the statements set forth herein are based upon personal knowledge.
2. Leonardo Arms Beach Club I (property owner) was observed in violation of ASCE 24-14, Sec. 6-501 & 6-525 of the Town of Fort Myers Beach Code of Ordinances, For the keeping and/or maintaining of non-compliant structure(s) and/or shipping containers on property, which are not built to current flood design codes in the Special Hazard Areas as defined in Section 6-494 of the FMB Code of Ordinances. , at the property located at 7400 Estero Blvd, Fort Myers Beach, FL 33931 ("Subject Property").
3. A Notice of Violation was issued on 11/19/2024, and sent certified mail to the address of record, 7400 Estero Blvd, Fort Myers Beach, FL 33931, posted to the violation property located at 7400 Estero Blvd, Fort Myers Beach, FL 33931, and posted to Town Hall located at 2731 Oak St., Fort Myers Beach, FL 33931.

4. Leonardo Arms Beach Club I was/were given 30-days to come into compliance with the Town of Fort Myers Beach Ordinance, which was on or before 12/19/2024.
5. I performed an inspection of the Subject Property on 01/15/2025, and the Subject Property was observed to be non-compliant with the Town of Fort Myers Beach Ordinance.
6. I have attached photographs of the Subject Property, which I personally took, and which fairly represent the current condition of the Subject Property I personally observed on 01/15/2025. These photographs are true, unaltered and accurate.
7. I have personal knowledge of all these facts, and each is true to the best of my knowledge and belief.
8. The Town of Fort Myers Beach hereby has determined the property located at 7400 Estero Blvd is in non-compliance with Fort Myers Code of Ordinances.

FURTHER AFFIANT SAYETH NAUGHT.

Signature of Affiant:



**STATE OF FLORIDA
COUNTY OF LEE**

The foregoing instrument was certified and subscribed before me by means of ☒ physical presence OR ☐ online notarization, this 15 day of January, 2025, by _____, _____ who is personally known to me OR _____ who has produced _____ as identification.

Notary Public Signature:



(SEAL)





Royal Pelican Townhouse Condo Assn
13831 Vector Ave
Fort Myers, FL 33907
Certified Mail No. 9589071052703142135019
(LLC Listed Registered Agent in Sunbiz)

Ownership was further confirmed with a copy of the records from the Tax Collector's website and Sunbiz a copy are in Exhibit _A_.

2. The return receipt of the certified mailing was not received and therefore additional notice was provided as required by Section 2-429(b)(1) and (b)(2) and stated below.
3. A copy of the Notice of Hearing was posted on __9/5/2025__, which is 27 days before the Special Magistrate Hearing scheduled on __10/1/2025__ at Fort Myers Beach Town Hall, 6231 Estero Boulevard, Fort Myers Beach, Florida 33931 and at 4501-4509 Bay Beach Ln Fort Myers, FL 33931. I took photographs of the Notices that were posted in these two locations. The photographs are true and accurate and have not been altered. A copy of the photographs are attached as Exhibit.

Under penalties of perjury, I declare that I have read the foregoing affidavit and that the facts stated in it are true and to the best of my knowledge and belief comply with Section 2-429 of the Town Land Development Code and Section 162.12, Florida Statutes.

x 
Signature of Affiant



Property Address and Owner:

Hearing Date: October 1, 2025

Property Owner: Top Group Investments LLC
Property Address: 269 Driftwood Ln
Status: Non-Compliant Structure

Subject:

Code Section:

Reference Number:

Strap Number:

Officer:

T. Yozzo

Narrative:

Attachments:

1. 20250781_Hearing Exhibit A_Notice of Hearing and Posting
2. 20250781_Hearing Exhibit B_FEMA and Related Ordinances
3. 20250781_Hearing Exhibit C_Notice of Violation
4. 20250781_Hearing Exhibit D_Status of Compliance
5. 20250781_Hearing Exhibit E_Violated Regulations

Town Recommendations:

Town Approvals:

Thomas Yozzo, Emergency Services Director

Date: September 24, 2025



Traci Kohler, Deputy Town Manager

Date: September 24, 2025

nancy stuparich, Town Attorney

Date: September 24, 2025

Lizzette Roman, Town Clerk Administrative Coordinator

Date: September 24, 2025

Amy Baker, Town Clerk

Date: September 24, 2025

HEARING

EXHIBIT

A

- Notice of Hearing and Affidavit of Posting



9/5/2025

TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

TOP GROUP INVESTMENTS LLC
2423 SW 147TH AVE #204
MIAMI, FL 33185

Respondent.

Case Number:	20250781
Certified Mail:	9589071052703142135033
Regular Mail:	Standard 1 st Class

Site Address: 269 DRIFTWOOD Fort Myers Beach, FL 33931
Parcel Strap No.: 34-46-24-W4-0010C.0170

NOTICE OF CODE ENFORCEMENT HEARING

YOU ARE HEREBY NOTIFIED that, pursuant to Chapter 162, Florida Statutes and Chapter 2, Article V of the Town of Fort Myers Beach Land Development Code, the undersigned Code Enforcement Officer has documented that (an) uncorrected violation(s) of one or more codes of the Town of Fort Myers Beach, as described in the **NOTICE OF VIOLATION**, previously provided to you (another copy of which is enclosed herewith), exists on the above described property. A hearing before the Town's Code Enforcement Special Magistrate concerning the violation(s) has, therefore, been scheduled for **WEDNESDAY 10-01-2025 at 9:00 A.M.** at Fort Myers Beach Town Hall, located at 6231 Estero Blvd., Fort Myers Beach, Florida 33931.

A copy of the evidentiary case file and all materials provided by the Town Code Enforcement Unit to the Special Magistrate in relation to this hearing can be viewed and accessed in advance of the hearing at the link below:

<http://www.fortmyersbeachfl.gov/209/Meetings-Agendas>

NO ADDITIONAL NOTICE OF THE HEARING WILL BE PROVIDED TO YOU. If you fail to attend this hearing, the Code Enforcement Special Magistrate will consider the case, even though you are not

FORT MYERS BEACH, ESTERO ISLAND

P. 239-765-0202 | **F.** 239-765-0909 | 2731 Oak Street, Fort Myers Beach, FL 33931



present, and may assess fines or take other actions that will affect your rights. If you believe you have come into compliance, it is your responsibility to contact the Code Enforcement Division so that an inspection can be carried out to determine compliance.

Please be aware that under Florida Statutes Chapter 162 and Town of Fort Myers Beach Land Development Code Section 2-427(b) a fine of up to \$250.00 per day for the first violation or \$500.00 per day for a repeat violation may be imposed for each day the violation continues or is repeated. If the Special Magistrate finds that a violation is irreparable or irreversible in nature, a fine of up to \$5,000.00 per violation may be imposed. The Special Magistrate may also assess the costs of prosecution of the case against you and you may be required to pay those fees, even if the violation(s) has been corrected or abated prior to the hearing.

Thomas Yozzo

Code Enforcement Officer
Town of Fort Myers Beach

NOTE: IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. PLEASE NOTIFY THE TOWN CLERK FOR THE TOWN OF FORT MYERS BEACH, 6231 ESTERO BLVD. FORT MYERS BEACH, FL 33931; TELEPHONE NUMBER (239) 765-0202, AT LEAST 72 BUSINESS HOURS BEFORE THE HEARING DATE.

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE SPECIAL MAGISTRATE WITH RESPECT TO ANY MATTER CONSIDERED AT HEARING, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND, FOR SUCH PURPOSE MAY NEED TO ENSURE AT THEIR OWN EXPENSE FOR THE TAKING AND PREPARATION OF A VERBATIM RECORD OF ALL TESTIMONY AND EVIDENCE BY A COURT REPORTER UPON WHICH THE APPEAL IS TO BE BASED

FORT MYERS BEACH, ESTERO ISLAND

P. 239-765-0202 | **F.** 239-765-0909 | 2731 Oak Street, Fort Myers Beach, FL 33931



3. In addition, I posted a copy of the Notice on the Town's publicly accessible website at <https://www.fortmyersbeachfl.gov/1294/Public-Notices> on the 5th day of September 2025. A copy of the posted webpage is attached as Evidence in Hearing Exhibit A.

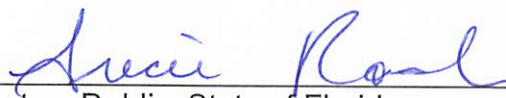
Under penalties of perjury, I declare that I have read the foregoing affidavit and that the facts stated in it are true and to the best of my knowledge and belief comply with Section 2-429 of the Town Land Development Code and Section 162.12, Florida Statutes.

x 
Signature of Affiant

**STATE OF FLORIDA
COUNTY OF LEE**

The foregoing instrument was sworn to, subscribed and acknowledged before me by means of either ☒ personal presence or ☐ online notarization this 5 day of September, 2025, by T Yozzo. They ☒ are personally known to me or ☐ has produced _____ as identification.




Notary Public, State of Florida
Print Name: Tracie Raski
My Commission Expires: 2/3/2029



TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

TOP GROUP INVESTMENTS LLC
2423 SW 147th Ave #204
Miami, FL 33185

FMB Case Number:	20250781
Certified Mail:	9589071052703142135033
Regular Mail:	Standard 1st Class
Magistrate Case Number:	Not Assigned

Site Address: 269 Driftwood Ln
Fort Myers Beach, FL 33931
Parcel Strap No. 34-46-24-W4-0010C.0170

Respondent,

AFFIDAVIT OF NOTICE AND POSTING

STATE OF FLORIDA
COUNTY OF LEE

BEFORE ME, the undersigned authority, personally appeared Thomas Yozzo, who is the Emergency Services Director for the Town of Fort Myers Beach, who was sworn and under oath, deposes and says the following regarding case #20250781 that certain Notice of Violation and Special Magistrate Code Hearing. Presented as Hearing Exhibit A ("The Notice")

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | 2731 Oak Street, Fort Myers Beach, FL 33931



I personally mailed by certified mail & first-class service a copy of the Notice of Violation to the following:

- a. Top Group Investments LLC
2423 SW 147th Ave #204
Miami, FL 33185
Certified Mail No. 9589071052703142135033
(Listed Leepa.org / Lee County Tax Collector Property Owner Address)
- b. Top Group Investments LLC
269 Driftwood Ln
Fort Myers Beach, FL 33931
Certified Mail No.9589071052703142135248
(Alternative Listed Mailing Address)
- c. Cancio Rodriguez
2423 SW 147 Ave #204
Miami, FL 33185
Certified Mail No.9589071052703142135231
(Registered Agent for Company)

Copies of the certified mailing receipts are attached in Hearing Exhibit A.

1. I posted a copy of the Notice at 269 Driftwood Ln, Fort Myers Beach, FL 33931, which is the subject property. I took photographs of the Notice I posted on the 5th day of September 2025. A true, accurate and unaltered copy of the photographs are attached in Hearing Exhibit A.
2. I posted a copy of the Notice at the primary municipal government office for the Town of Fort Myers Beach, which is Town Hall and located at 6231 Estero Blvd, Fort Myers Beach, FL 33931. True, accurate and unaltered copies of photographs I took of the Notice posted on the 5th day of September 2025 are attached in Hearing Exhibit A.

9589 0710 5270 3142 1352 31

U.S. Postal Service™ CERTIFIED MAIL® RECEIPT Domestic Mail Only	
For delivery information, visit our website at www.usps.com ®.	
OFFICIAL USE	
Certified Mail Fee	Town of Fort Myers Beach
Extra Services & Fees (check box, add fee as appropriate)	
☐ Return Receipt (hardcopy)	\$ SEP 08 2025
☐ Return Receipt (electronic)	\$
☐ Certified Mail Restricted Delivery	\$
☐ Adult Signature Required	\$
☐ Adult Signature Restricted Delivery	\$
Postage	Case # 20250781
Total Postage and Fees	269 Driftwood Ln
TOP GROUP INVESTMENTS LLC 2423 SW 147TH AVE #204 MIAMI, FL 33185	
PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions	

9589 0710 5270 3142 1352 31

U.S. Postal Service™ CERTIFIED MAIL® RECEIPT Domestic Mail Only	
For delivery information, visit our website at www.usps.com ®.	
OFFICIAL USE	
Certified Mail Fee	Town of Fort Myers Beach
Extra Services & Fees (check box, add fee as appropriate)	
☐ Return Receipt (hardcopy)	\$ SEP 08 2025
☐ Return Receipt (electronic)	\$
☐ Certified Mail Restricted Delivery	\$
☐ Adult Signature Required	\$
☐ Adult Signature Restricted Delivery	\$
Postage	Case # 20250781
Total Postage and Fees	269 Driftwood Ln
CANCIO RODRIGUEZ, ENNY 2423 SW 147 AVE #204 MIAMI, FL 33185	
PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions	

9589 0710 5270 3142 1352 48

U.S. Postal Service™ CERTIFIED MAIL® RECEIPT Domestic Mail Only	
For delivery information, visit our website at www.usps.com ®.	
OFFICIAL USE	
Certified Mail Fee	Town of Fort Myers Beach
Extra Services & Fees (check box, add fee as appropriate)	
☐ Return Receipt (hardcopy)	\$ SEP 08 2025
☐ Return Receipt (electronic)	\$
☐ Certified Mail Restricted Delivery	\$
☐ Adult Signature Required	\$
☐ Adult Signature Restricted Delivery	\$
Postage	Case # 20250781
Total Postage and Fees	269 Driftwood Ln
TOP GROUP INVESTMENTS LLC 269 DRIFTWOOD LN MIAMI, FL 33185	
PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions	



FMBgov.com

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

9/5/2025

TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

TOP GROUP INVESTMENTS LLC
2423 SW 147TH AVE #204
MIAMI, FL 33185

Respondent.

Site Address: 269 DRIFTWOOD Fort Myers Beach, FL 33931
Parcel Strap No.: 34-46-24-W4-0010C.0170

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NO ADDITIONAL NOTICE OF THE HEARING WILL BE PROVIDED TO YOU. If you fail to attend this

Sep 5, 2025 5:32:23 PM



Sep 5, 2025 5:32:29 PM

violation prior to the time set for the hearing.

you will be provided with a Notice of Hearing specifying the date, time and location of the hearing if scheduled. Please be aware that under Florida Statutes Chapter 162 and Town of Fort Myers



FMBgov.com

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

9/5/2025

TOWN OF FORT MYERS BEACH,

Petitioner,

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TOP GROUP INVESTMENTS LLC
2423 SW 147TH AVE #204
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FORT MYERS BEACH, ESTERO ISLAND
P. 239-765-0202 | F. 239-765-0909 | 2731 Oak Street, Fort Myers Beach, FL 33931

(Last 06/2024)



08/13/2025

Town of Fort Myers
2731 Oak Street Fort Myers Beach, FL 33931
Phone: (239) 765-0202 | Fax: (239) 765-0909

Sep 12, 2025 12:50:13 PM



Property Data

STRAP: 34-46-24-W4-0010C.0170 Folio ID: 10231080

Tax Roll Value Letter 2025 ▾

Generated on 9/15/2025 3:57 PM

Owner Of Record - Sole Owner

[\[Change Mailing Address\]](#)



TOP GROUP INVESTMENTS LLC
2423 SW 147TH AVE #204
MIAMI FL 33185

Site Address

Site Address maintained by [E911 Program Addressing](#)

269 DRIFTWOOD LN
FORT MYERS BEACH FL 33931

Property Description

Do not use for legal documents!



FLAMINGO PARK BLK C PB 9 PG 66 LOTS 17 + 16

[View Recorded Plat at LeeClerk.org](#) - Use this link to do an Official Records search on the Lee County Clerk of Courts website, using 9 and 66 for the book and page numbers.

Attributes and Location Details

Total Bedrooms / Bathrooms	5 / 4.5
Gross Living Area	3,352
1st Year Building on Tax Roll	1953
Historic Designation	No

Township	Range	Section	Block	Lot
46	24E	34	0010C	0170
Municipality	Latitude	Longitude		
Town of Fort Myers Beach	26.42575	-81.9031		

[View Parcel on Google Maps](#)

[\[Tax Map Viewer \]](#) [\[View Comparables \]](#)



[\[Pictometry Aerial Viewer \]](#)

Image of Structure



◀ Photo Date July of 2022 ▶ ☐ View other photos

Last Inspection Date: 01/15/2025

Property Values / Exemptions / TRIM Notices

Generated on 9/15/2025 3:57 PM

No existing exemptions found for this property.

TRIM Notices	Tax Year	Just	Land	Market Assessed	Capped Assessed	Exemptions	Classified Use	1
--------------	----------	------	------	-----------------	-----------------	------------	----------------	---

2025 / Additional Info	2025 (TRIM Value)	651,675	651,665	651,675	651,675	0	0
2024 / Additional Info	2024 (Final Value)	1,081,668	1,081,658	1,081,668	1,081,668	0	0
2023 / Additional Info	2023 (Final Value)	651,675	651,665	651,675	651,675	0	0
2022 / Additional Info	2022 (Final Value)	984,530	468,150	984,530	742,266	0	0
2021 / Additional Info	2021 (Final Value)	674,787	437,550	674,787	674,787	0	0
2020 / Additional Info	2020 (Final Value)	606,443	437,550	606,443	606,443	0	0
2019 / Additional Info	2019 (Final Value)	589,468	364,650	589,468	589,468	0	0
2018 / Additional Info	2018 (Final Value)	551,530	331,500	551,530	377,201	50,000	0
2017 / Additional Info	2017 (Final Value)	524,877	236,250	524,877	378,795	50,000	0
2016	2016 (Final Value)	449,758	236,250	449,758	362,171	50,000	0
2015	2015 (Final Value)	452,900	236,250	452,900	362,108	50,000	0
2014	2014 (Corrected Value)	441,712	242,975	441,712	354,175	25,000	0
2013	2013 (Final Value)	433,111	260,000	433,111	251,888	50,000	0
2012	2012 (Final Value)	392,699	225,000	392,699	340,112	50,000	0
2011	2011 (Final Value)	453,202	255,000	453,202	332,288	50,000	0
2010	2010 (Final Value)	515,857	337,500	515,857	320,385	50,000	0
	2009 (Final Value)	614,540	412,500	614,540	301,680	50,000	0
	2008 (Final Value)	763,660	540,000	763,660	301,380	50,000	0
	2007 (Final Value)	766,050	615,000	0	375,830	25,000	0
	2006 (Final Value)	777,140	640,000	0	360,560	25,000	0
	2005 (Final Value)	643,880	544,000	0	250,980	25,000	0
	2004 (Final Value)	442,510	328,000	0	243,670	25,000	0
	2003 (Final Value)	511,670	360,000	0	239,130	25,000	0
	2002 (Final Value)	333,070	240,000	0	214,850	25,000	0
	2001 (Final Value)	277,060	186,000	0	211,470	25,000	0
	2000 (Final Value)	225,720	150,000	0	205,310	25,000	0
	1999 (Final Value)	195,750	120,000	0	195,750	25,000	0
	1998 (Final Value)	195,770	122,310	0	195,770	0	0
	1997 (Final Value)	193,310	120,000	0	158,220	25,000	0
	1996 (Final Value)	169,330	120,890	0	153,610	25,000	0
	1995 (Final Value)	91,330	42,890	0	91,330	25,000	0
	1994 (Final Value)	91,330	42,890	0	91,330	25,000	0
	1993 (Final Value)	91,330	42,890	0	91,330	25,000	0
	1992 (Final Value)	91,330	42,890	0	91,330	25,000	0

The **Just** value is the total parcel assessment (less any considerations for the cost of sale). This is the closest value to *Fair Market Value* we produce as of January 1st of the tax year in question (*F.A.C. 12D-1.002*).

The **Land** value is the portion of the total parcel assessment attributed to the land.

The **Market Assessed** value is the total parcel assessment (less any considerations for the cost of sale) based upon the assessment standard. Most parcels are assessed based either upon the *Highest and Best Use* standard or the *Present Use* standard (*F.S. 193.011*). For *Agriculturally Classified* parcels (or parcels with only agricultural uses are considered in the assessment (*F.S. 193.461 (6) (a)*)). The difference between the *Highest and Best Use/Present Use* and the *Agricultural Exemption* is often referred to as the *Agricultural Exemption*.
(i.e. Market Assessed = Just - Agricultural Exemption)

The **Capped Assessed** value is the *Market Assessment* after any *Save Our Homes* or *10% Assessment Limitation* cap is applied. This assessment cap is applied to all properties and limits year-to-year assessment increases to either the *Consumer Price Index* or 3%, whichever is lower for *Homestead* properties OR 10% for *Non-Homestead* properties.

The **Exemptions** value is the total amount of all exemptions on the parcel.

The **Taxable** value is the *Capped Assessment* after exemptions (*Homestead, etc.*) are applied to it. This is the value that most taxing authorities use to calculate a parcel's taxes.
(i.e. Taxable = Capped Assessed - Exemptions)

Property Details (Current as of 9/14/2025)

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Land
Land Tracts

Use Code	Use Code Description	Number of Units	Unit of Meas
831	Multi-Family, Less than 10 Units, Canal	2.00	Lot

Land Features

Description	Year Added	Ur
SLAB - CONCRETE	1953	
SEAWALL - CONCRETE	2020	
DOCK - BOAT - WOODEN	2020	
BOAT LIFT	2020	

Buildings

Building 1 of 1

Building Characteristics

Improvement Type	Model Type	Stories	Living Uni
114 - Family Conversion	1 - SINGLE FAMILY RESIDENTIAL	1.0	4
Bedrooms	Bathrooms	Year Built	Effective Year
5	4.5	1953	1989

Building Subareas

Description	Heated / Under Air	Area (Sq F)
AP2 - APARTMENT 2	Y	
AP3 - APARTMENT 3	Y	
APT - APARTMENT	Y	
BAS - BASE	Y	
FLU - FINISHED LOWER UTILITY	N	
LCP - LOWER CARPORT / OPEN PORCH	N	
PTO - PATIO	N	
STP - STOOP	N	
STP - STOOP	N	

Building Features

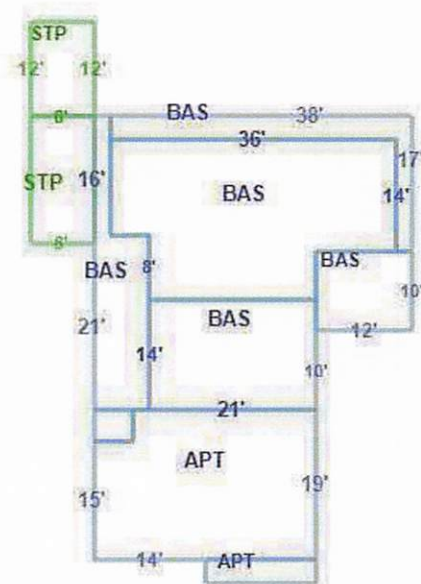
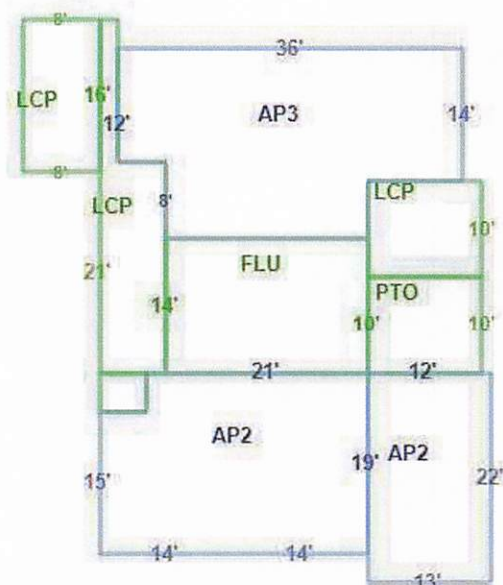
Description	Year Added	Units
PATIO - CONCRETE	1996	

Building Front Photo

Building Footprint



Photo Date: July of 2022



Property Details (2025 TRIM)

Generated on 9/15/2025 3:57 PM

Land

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Use Code	Use Code Description	Number of Units	Unit of Measure
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Building 1 of 1

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LCP - LOWER CARPORT / OPEN PORCH	N	
PTO - PATIO	N	
STP - STOOP	N	
STP - STOOP	N	

Building Features

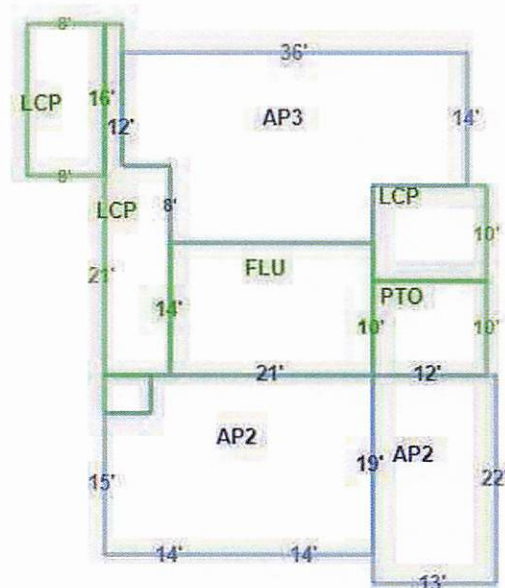
Description	Year Added	Units
PATIO - CONCRETE	1996	

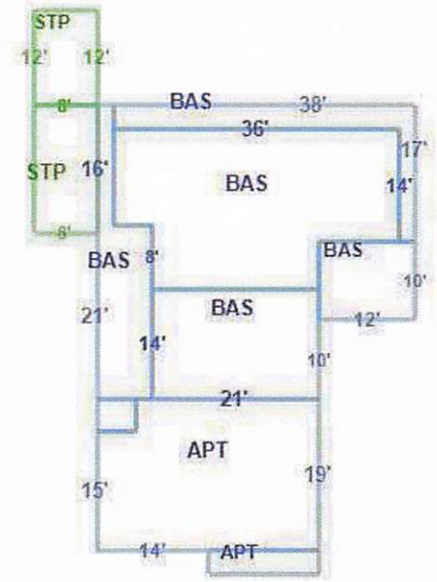
Building Front Photo



Photo Date: July of 2022

Building Footprint





Taxing Authorities

Generated on 9/15/2025 3:57 PM

TOWN OF FT MYERS BEACH / 032

Name / Code	Category	Mailing Address
LEE CO GENERAL REVENUE / 044	County	LEE COUNTY OFFICE OF MGMT & BUDGET PO BOX 398 FORT MYERS FL 33902-0398
FORT MYERS BEACH FIRE CONTROL DIST / 032	Independent District	FORT MYERS BEACH FIRE CONTROL DIST 100 VOORHIS ST FORT MYERS BEACH FL 33931
FORT MYERS BEACH MOSQUITO CONTROL / 035	Independent District	FORT MYERS BEACH MOSQUITO CONTROL PO BOX 2837 FORT MYERS BEACH FL 33932-2837
FORT MYERS BEACH PUBLIC LIBRARY DIST / 033	Independent District	FORT MYERS BEACH PUBLIC LIBRARY DIST 2755 ESTERO BLVD FORT MYERS BEACH FL 33931
LEE CO HYACINTH CONTROL DIST / 051	Independent District	LEE CO HYACINTH CONTROL DIST 15191 HOMESTEAD RD LEHIGH ACRES FL 33971
WEST COAST INLAND NAVIGATION DIST / 098	Independent District	WEST COAST INLAND NAVIGATION DIST 200 MIAMI AVE E VENICE FL 34285-2408
TOWN OF FORT MYERS BEACH FLORIDA / 118	Municipal	TOWN OF FORT MYERS BEACH 2523 ESTERO BLVD FORT MYERS BEACH FL 33931
PUBLIC SCHOOL - BY LOCAL BOARD / 012	Public Schools	LEE COUNTY SCHOOL BOARD BUDGET DEPARTMENT 2855 COLONIAL BLVD FORT MYERS FL 33966
PUBLIC SCHOOL - BY STATE LAW / 013	Public Schools	LEE COUNTY SCHOOL BOARD BUDGET DEPARTMENT 2855 COLONIAL BLVD FORT MYERS FL 33966
GREEN CORRIDOR PACE / 363	Special District	

SFWMD-DISTRICT-WIDE / 110	Water District	SFWMD 3301 GUN CLUB RD WEST PALM BEACH FL 33406
SFWMD-EVERGLADES CONSTRUCTION PROJECT / 084	Water District	SFWMD 3301 GUN CLUB RD WEST PALM BEACH FL 33406
SFWMD-OKEECHOBEE BASIN / 308	Water District	SFWMD 3301 GUN CLUB RD WEST PALM BEACH FL 33406

Sales / Transactions

Generated on 9/15/2025 3:57 PM

Sale Price	Date	Clerk File Number	Type	Notes	Vac Impr
1,261,000.00	10/24/2023	2023000345726	01		
1,895,000.00	03/31/2022	2022000107122	03		
775,000.00	12/13/2018	2018000292915	01		
0.00	04/01/2013	2013000075714	11	Sales Questionnaire Complete	
303,200.00	01/15/2013	2013000012341	11		
0.00	11/24/2010	2010000292582	11		
250,100.00	10/13/2010	2010000259603	11		
240,000.00	05/13/1997	2824/2222	01		
100.00	04/29/1993	2397/3356	03		
100.00	03/01/1993	2374/1849	04		

[View Recorded Plat at LeeClerk.org](#)

Use the above link to do a search on the Lee County Clerk of Courts website, using **9** and **66** for the book and page numbers and **Plats Book** for the book.

Help safeguard your home against property fraud. Sign up for the Lee Clerk's free [Property Fraud Alert](#).

Building / Construction Permit Data

Generated on 9/15/2025 3:57 PM

Permit Number	Permit Type	Date
236443	Demolition	12/27/2024
240421	Electric	02/12/2024
240098	Mobile Home	01/11/2024
221191	Roof	07/28/2022
201076	Boathouse, Dock & Shoreline	08/25/2020
MEC15-0021	AC New / Change out	01/30/2015

9/15/25, 3:57 PMOnline Parcel Inquiry | Lee County Property Appraiser

IMPORTANT: THIS MAY NOT BE A COMPREHENSIVE OR TIMELY LISTING OF PERMITS ISSUED FOR THIS PROPERTY.

Note: The Lee County Property Appraiser's Office does not issue or maintain any permit information. The Building / Construction permit data displayed represents only those records this Office may find necessary to conduct Property Appraiser business. Use of this information is with the understanding in no way is this to be considered a comprehensive listing of permits for this or any other parcel.

The Date field represents the date the property appraiser received information regarding permit activity; it may or not represent the actual date of permit issuance or completion.

Full, accurate, active and valid permit information for parcels can only be obtained from the appropriate permit issuing agency.

Parcel Numbering History ⓘ

Generated on 9/15/2025 3:57 PM

Prior STRAP	Prior Folio ID	Renumber Reason	Renumber Date
34-46-24-01-0000C.0170	N/A	Combined (With another parcel-Delete Occurs)	01/12/1995

Solid Waste (Garbage) Roll Data

Generated on 9/15/2025 3:57 PM

Solid Waste District	Roll Type	Category	Unit / Area	Tax Amount
001 - Service Area 1	R - Residential Category		4	
Collection Days				
Garbage	Recycling	Horticulture		
Thursday	Thursday	Thursday		

Flood and Storm Information

Generated on 9/15/2025 3:57 PM

Flood Insurance Find my flood zone					Evacuation Zone
Community	Panel	Version	Date		
071C	0567	G	11/17/2022		A

Generated on 9/15/2025 3:57 PM



[Department of State](#) / [Division of Corporations](#) / [Search Records](#) / [Search by Entity Name](#) /

Detail by Entity Name

Florida Limited Liability Company
TOP GROUP INVESTMENTS, LLC

Filing Information

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State FL
Status ACTIVE

Principal Address

269 DRIFTWOOD LN
FORT MYERS BEACH, FL 33931

Changed: 10/07/2024

Mailing Address

2423 SW 147 AVE
204
MIAMI, FL 33185

Registered Agent Name & Address

CANCIO RODRIGUEZ, ENNY
2423 SW 147 AVE
204
MIAMI, FL 33185

Authorized Person(s) Detail

Name & Address

Title AMBR

CANCIO RODRIGUEZ, ENNY
2423 SW 147 AVE
204, FL 33185

Title AMBR

HERNANDEZ, CARLOS A
2423 SW 147 AVE
204

MIAMI, FL 33185

Annual Reports

Report Year	Filed Date
2024	03/23/2024
2024	10/07/2024
2025	04/11/2025

Document Images

<u>04/11/2025 -- ANNUAL REPORT</u>	View Image in PDF format
<u>10/07/2024 -- AMENDED ANNUAL REPORT</u>	View Image in PDF format
<u>03/23/2024 -- ANNUAL REPORT</u>	View Image in PDF format
<u>09/20/2023 -- AMENDED ANNUAL REPORT</u>	View Image in PDF format
<u>01/29/2023 -- ANNUAL REPORT</u>	View Image in PDF format
<u>06/23/2022 -- Florida Limited Liability</u>	View Image in PDF format



Lee County Tax Collector

Noelle Branning

Account Number:

34-46-24-W4-0010C.0170

Alternate Key:

2100607970

Millage Code:

032

Site Address/Legal Description:

269 DRIFTWOOD LN

FLAMINGO PARK BLK C PB 9 PG 66 LOTS 17 + 16



▲
**SCAN
THIS CODE
to pay online**
or visit
LeeTC.com/pay-online

2024 Real Estate Tax Notice

Ad Valorem Taxes and Non-Ad Valorem Assessments for Lee County, Florida

Exemptions/Values

Market Value	1,081,668
Assessed Value	1,081,668
Taxable Value	1,081,668

★ See message below.

TOP GROUP INVESTMENTS LLC
2423 SW 147TH AVE #204
MIAMI, FL 33185

Paid 03/05/2025 INT-00-03262234 \$15,769.62

Ad Valorem Taxes Levying Authority

	Telephone	Mill Rate	Assessed	Exemption	Taxable	Amount
LEE COUNTY GENERAL REVENUE	239-533-2221	3.7623	1,081,668	0	1,081,668	4,069.56
PUBLIC SCHOOL - BY LOCAL BOARD	239-337-8215	2.2480	1,081,668	0	1,081,668	2,431.59
PUBLIC SCHOOL - BY STATE LAW	239-337-8215	3.0380	1,081,668	0	1,081,668	3,286.11
TOWN OF FORT MYERS BEACH	239-765-0202	0.9900	1,081,668	0	1,081,668	1,070.85
SFL WATER MGMT-DISTRICT LEVY	561-686-8800	0.0948	1,081,668	0	1,081,668	102.54
SFL WATER MGMT-EVERGLADE CONST	561-686-8800	0.0327	1,081,668	0	1,081,668	35.37
SFL WATER MGMT-OKEECHOBEE LEVY	561-686-8800	0.1026	1,081,668	0	1,081,668	110.98
FORT MYERS BEACH FIRE CONTROL DISTRICT	239-590-4200	2.8000	1,081,668	0	1,081,668	3,028.67
FORT MYERS BEACH MOSQUITO	239-247-1205	0.1123	1,081,668	0	1,081,668	121.47
FORT MYERS BEACH LIBRARY	239-463-9691	0.1612	1,081,668	0	1,081,668	174.36
LEE COUNTY HYACINTH CONTROL	239-694-2174	0.0200	1,081,668	0	1,081,668	21.63
WEST COAST INLAND NAVIGATION DISTRICT	941-485-9402	0.0394	1,081,668	0	1,081,668	42.62

Non-Ad Valorem Assessments Levying Authority
LEE COUNTY SOLID WASTE ASSESSMENT

Telephone 239-533-8000 Rate

Basis Amount
ACTL LEVY 1,273.87

2024 Combined Total Ad Valorem and Non-Ad Valorem:

\$15,769.62

2024 Real Estate Tax Notice

PAY ONLY ONE AMOUNT

If Received By:

- ☐ Mar 31, 2025
- ☐
- ☐
- ☐
- ☐
- ☐

Amount Due:

\$0.00

Phone/Email Contact: _____

For payment options and instructions, refer to the back of this notice.

Account: 34-46-24-W4-0010C.0170

Site Address: 269 DRIFTWOOD LN

Alternate Key: 2100607970

★ If the address below is not correct, visit LeePA.org to update your address.

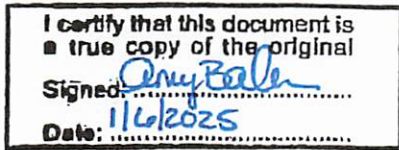
TOP GROUP INVESTMENTS LLC
2423 SW 147TH AVE #204
MIAMI, FL 33185

Make check payable to:
LEE COUNTY TAX COLLECTOR
PO BOX 1609
FORT MYERS, FL 33902-1609

Paid 03/05/2025 INT-00-03262234 \$15,769.62

Hearing Exhibit B

FEMA and Related Ordinances



U. S. Department of Homeland Security
Region 4
3005 Chamblee Tucker Road
Atlanta, GA 30341



FEMA

July 19, 2024

CERTIFIED MAIL RETURN RECEIPT REQUESTED

Andy Hyatt
Town Manager, Fort Myers Beach
2525 Estero Blvd
Fort Myers Beach, FL 33931

Re: National Flood Insurance Program Participation

Dear Mr. Hyatt:

I'd like to thank you and your staff for the long hours and hard work during the last two months to help correct the Town of Fort Myers Beach's compliance issues regarding the National Flood Insurance Program (NFIP). Our teams have made great progress in helping ensure Fort Myers Beach and their residents are more resilient and prepared for future storms.

Our team has completed its review of the town's compliance with the minimum floodplain management standards and everything that has been done to correct any deficiencies and violations.

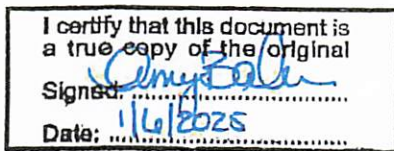
We acknowledge the work invested by your community has resulted in some improvements to meet minimum floodplain management standards. However, as the Town of Fort Myers Beach continues to recover from Hurricane Ian, FEMA finds that outstanding compliance issues remain. FEMA will not retrograde the town's class rating at this time.

Although FEMA will not retrograde the Town of Fort Myers Beach's class rating at this time, if the violations are not corrected or remedied by Nov. 18, FEMA's regulations (Title 44 Code of Federal Regulations 59.24(b) Suspension of Community Eligibility) require us to place the town on probation. This letter starts the official notification process. In addition, the town would no longer be eligible for Community Rating System participation and would be retrograded to Class 10 effective on April 1, 2025.

This letter and its attachments include FEMA's findings and our proposed next steps for the Town of Fort Myers Beach to remedy outstanding deficiencies and violations. These deficiencies and violations are described in the attached documents, specifically refer to the Status Report. To avoid probation in 121 days, the Town of Fort Myers Beach must correct deficiencies and remedy all identified violations to the maximum extent possible by Nov. 18.

You have my commitment of support as you work through these issues with your team.

www.fema.gov



A careful review of the data you provided since April shows that the implementation of the floodplain management program has several deficiencies that remain out of compliance. During the 60-day review period, the Town of Fort Myers Beach submitted additional permitting information for 105 structures in the floodplain.

Here is a summary of some of the items that the Town of Fort Myers Beach needs to remedy:

- Lack of permits for development in the Special Flood Hazard Area.
- Lack of maintaining permit records for development, new construction, or substantial improvements.
- Failure to make substantial improvement (SI) and substantial damage (SD) ("SI/SD") determinations.

FEMA staff reviewed each of the submitted permit packages and learned:

- 31% of the permit packages were complete.
- 20% need additional information.
- 2% needed a Community Assistance Visit follow up.
- 15% were ongoing in a Code Enforcement Case.
- 32% will be followed up on during a Future Compliance Engagement.

FEMA also found:

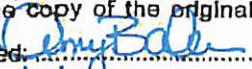
- 51 out of the 105 permit packages submitted did not include permits for structures that sustained documented damage.
- 76 of the 105 were missing itemized/detailed cost information for repair performed.
- 62 of the 105 had individual permits issued without total repair costs.

To avoid probation, the Town of Fort Myers Beach must complete the following items by close of business on Nov. 18. We encourage regular communication to share updates on your progress.

The town must remedy the following identified deficiencies:

1. Within 60 days of the date of this correspondence, September 16, 2024, develop and submit a plan that includes timelines and actions to address all identified program deficiencies and violations to the maximum extent possible.
2. Assess all floodplain development from Hurricane Ian in the Special Flood Hazard Area, ensuring that permits for all repairs, construction and development were obtained consistent with local floodplain management regulations:
 - a. From FEMA's April 8, 2024 letter:
 - i. Provide a status update for structures deemed Substantially Damaged on the list provided by the Town of Fort Myers Beach in accordance with the April 11, 2024, letter sent to the FEMA Region 4 Administrator.
 - ii. Provide evidence to support compliance action taken for the structures identified as having damage and FEMA identified as Future Compliance Engagement, Community Assistance Visit follow up, and additional information needed.

I certify that this document is
a true copy of the original

Signed: 

Date: 11/6/2025

- b. In addition to the above, provide an assessment of all floodplain development impacts from Hurricane Ian to structures in the Special Flood Hazard Area and provide a plan for remedying any identified violations.
3. Provide documentation that demonstrates your community is leveraging its code enforcement process to address new and existing code cases for all structures not confirmed as compliant. When a violation is confirmed, remedy to maximum extent possible. This includes:
 - a. In Item 2 above, structures identified during the evaluation as a Code Enforcement Case
 - b. Structures identified when assessing the Special Flood Hazard Area for all Hurricane Ian impacts to structures.
4. Put a process in place to ensure substantial damage compliance for future events.

You have my commitment to continue to support you and your team as you take the necessary compliance measures to avoid probation and possible suspension from the National Flood Insurance Program.

If you have any questions or at any time need technical assistance to address these issues, please contact FEMA Region 4 Office, Jacky Bell, Mitigation Division Director, at jacky.bell@fema.dhs.gov or 404-273-4710.

Sincerely,

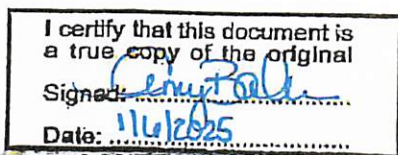


Robert D. Samaan
Regional Administrator

Attachments:

- Community Status Report
- Criteria for Avoiding Probation

cc: Kristin Schumacher, Floodplain Administrator
Jason Hunter, Region Floodplain Management & Insurance Branch Chief
Jillian Kraynak, Florida NFIP State Coordinator
Office of Sen. Marco Rubio
Office of Sen. Rick Scott
Office of Rep. Byron Donalds
Office of Rep. Greg Steube



FEMA

Town of Fort Myers Beach Post-Disaster Compliance Status Update Report

FEMA remains committed to helping communities take appropriate remediation actions to remain in good standing with the National Flood Insurance Program (NFIP) and participate in the Community Rating System (CRS).

The Town of Fort Myers Beach was granted 60 days (June 10, 2024), to submit to FEMA any new information related to the deficiencies and substantive violations detailed in FEMA's April 8, 2024 Findings Report. The April 8, 2024 Findings Report supported an initial decision by FEMA to retrograde the Town of Fort Myers Beach to a CRS class 10 community. In the Findings Report, FEMA also found program deficiencies and violations within the Town of Fort Myers Beach, which will serve as a basis for the current enforcement action and needed remediation.

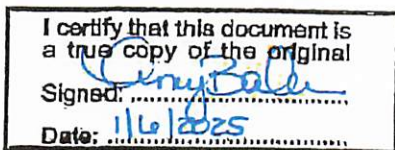
During the 60-day review period, the Town of Fort Myers Beach provided FEMA permit documentation for 105 sites. FEMA reviewed the submitted documentation, for the 105 sites as well as the Town of Fort Myers Beach's Narrative and supporting documentation.

After careful review of Town of Fort Myers Beach's submittal, FEMA finds that program deficiencies and substantive violations remain. Unfortunately, due to the deficiencies, the Town of Fort Myers Beach is being notified that they have until November 18, 2024 to address these deficiencies, or the Town will be placed on probation from the NFIP:

LIST OF PROGRAM DEFICIENCIES

Program Deficiencies are a defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of floodplain management regulations of the standards in 44 CFR 60.3; 60.4; 60.6; and NFIP Community Compliance Program Guidance, P-1022 (July 2016) in section 3.2.

- Failure of the community's "commitment to recognize and duly evaluate flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards in all official actions in the areas having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards and to take such other official action reasonably necessary to carry out the objectives of the program;" 44 CFR 59.22(8) and LDC CH 6, Art IV, Div 1, Sec 6-403(8).
- Failure to require permits for all proposed construction and development in the SFHA. 44 CFR 60.3(b)(1); 44 CFR 60.3(c)(1); 44 CFR 60.3(e)(1); FBC R101.2.1; FBC EB701.3; FBC 105.1; LDC CH 6, Art IV, Div 3, Sec 6-427; and LDC CH 6, Art IV, Div 6, Sec 6-461.
- Failure to maintain permit records for development, new construction, or substantial improvements in the SFHA. 44 CFR 59.22(a)(9)(iii); 44 CFR 60.3(b)(5)(iii); and 44 CFR 60.3(e)(2)(ii).
- Failure to make substantial improvement (SI) and substantial damage (SD) ("SI/SD") determinations and calculations for all proposed construction and development in the SFHA. 44 CFR 60.3(b)(1); 44 CFR 60.3(c)(1); 44 CFR 60.3(e)(1); LDC CH 6, Art IV, Div 3, Sec 6.428(1); and FEMA Substantial Improvement / Substantial Damage Desk Reference, P-758 (May 2010) ("SI/SD Desk Reference") in section 5.2.



- ✓ Failure to maintain SI/SD determination records for all proposed construction and development in the SFHA. 44 CFR 59.22(a)(9)(iii); 44 CFR 60.3(b)(5)(iii); 44 CFR 60.3(e)(2)(ii); and SI/SD Desk Reference in sections 4.2 and 7.7.
- ✓ Failure to keep records of permits, certifications, and variance actions. 44 CFR 59.22(a)(9)(iii).
- ✓ Failure to establish SI/SD procedures for administering and documenting determinations of SI/SD. LDC CH6, Art IV, Div 3, Sec 6.428(1) and FEMA Substantial Improvement / Substantial Damage Desk Reference, P-758 (May 2010) ("SI/SD Desk Reference") in sections 4.1, 4.3, & 7.1.
- ✓ Failure in permitting system, which allowed the use of "temporary" non-compliant structures (including shipping container and trailers/food trucks). LDC CH 6, Art IV, Div, 4, Sec 6.443 (3)&(4), LDC CH 6, Art IV, Div 6, and LDC CH 6, Art IV, Div 6, Sec 6.462, Sec 6.463, and LDC CH 6, Art IV Div 10, Sec 6-501.

1. Program deficiencies

Serious program deficiencies in a community's administrative and enforcement process and procedures are those that have resulted or could result in substantive violations that increase potential flood damages or stages in the community. The following deficiencies represent gaps in the Town's administrative process that restrict the ability to meet the minimum standards for participation.

Permitting of non-compliant structures/shipping containers/

Inconsistent Market Value	Missing Repair Permits (Known Damage (IA/Insurance))	Missing Detailed Cost Info	Low & Inadequate Labor Costs	Permits Issued Without Total Repair Costs	Failed To Capture Complete Scope of Work	After the Fact Permits	After the Fact Notice of Violation
1	51	76	8	62	65	16	25

2. List of properties determined to be substantially damaged:

The Town of Fort Myers Beach has submitted to FEMA a list of properties that Town of Fort Myers Beach deemed substantially damaged since the disaster; there were 356 structures listed. What actions has the Town taken or plan to take to follow-up on those structures? Please provide FEMA with a status of each structure to indicate how substantial damage is being addressed.

3. Non-compliant development

- a. Non-compliant structures (containers) and temporary structures have been placed in the Coastal High Hazard Area (VE zone and coastal A zone). Please provide a plan to remove the structures or bring the non-compliant structures or non-compliant additions into compliance; and confirmation that the town has stopped issuing permits for this type of non-compliant development.

b.

I certify that this document is a true copy of the original

Signed: Cheryl Baker

Date: 11/6/2023



4. Data Dictionary (revised) – “Status” Column Meanings:

Additional Information Needed – Permit package needs additional information to be considered complete.

CAV Follow-Up – Not a Hurricane Ian issue but found a need for additional information during the next compliance follow-up with the community.

Code Enforcement Case – Community is currently processing as a code enforcement case and FEMA will accept and review case updates, follow-up permit information, and/or enforcement actions occurring prior to June 10, 2024. Actions occurring beyond that time will require future compliance engagement.

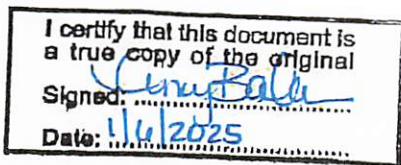
Complete – FEMA needs no further information regarding the specific address.

Future Compliance Engagement – Ian related activity. FEMA will follow-up on this site during the next compliance follow-up with the community.

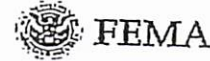
5. Documentation on the Finding Report and Site list:

Attached to this document is a list of structures within the SFHA with violations, including the type of violation, status, and needed documentation.

Final Status (as of June 28, 2024)	Count
Additional Information Needed	21
CAV Follow-Up	2
Code Enforcement Case	16
Complete	32
Future Compliance Engagement	34
Grand Total	105



U.S. Department of Homeland Security
Washington, DC 20528



National Flood Insurance Program Privacy Act Notice

RE: Town of Fort Myers Beach, FL, National Flood Insurance Program Data from the Federal Emergency Management Agency (FEMA)

The Town of Fort Myers Beach, FL is receiving data from the Federal Emergency Management Agency's that is maintained in support of the National Flood Insurance Program (NFIP). Specifically, the Town of Fort Myers Beach, FL is receiving property addresses identified by FEMA as possible violations to the local floodplain management laws and regulations. The community shall use the data to verify, monitor, and resolve the possible violation. As an NFIP participating community, this information will assist the community to ensure compliance with the NFIP and maintain the availability of flood insurance. FEMA will send the information to you securely via email on a password-protected spreadsheet or pdf.

FEMA discloses this to you pursuant to the "routine use" provision of the Privacy Act of 1974, 5 U.S.C. § 552a(b)(3), specifically under Routine Uses G, I, M, N, O, R and T of the System of Records Notice (SORN), DHS/FEMA-003 - National Flood Insurance Program Files 79 FR 28747 (May 19, 2014). The SORN may be electronically viewed at <https://www.gpo.gov/fdsys/pkg/FR-2014-05-19/html/2014-11386.htm>.

The Town of Fort Myers Beach, FL does not have permission to release the provided information to third parties, including third party contractors and will only use the data for the stated purpose. Unauthorized disclosure of FEMA data will result in an immediate denial of access to the FEMA data. Pursuant to the Privacy Act, 5 U.S.C. § 552a(e)(10), please destroy or return said personally identifiable information (PII) to FEMA once you no longer have use for it. PII is information that can be used to identify, by itself, or in combination, individuals by direct or indirect means.

In the event of a privacy incident resulting from this sharing of FEMA PII, Town of Fort Myers Beach, FL shall immediately, but in no event later than twenty-four (24) hours from suspicion, discovery or notification of the suspected or confirmed privacy incident, notify the FEMA Privacy Officer at (202) 212-5100 or FEMA-Privacy@fema.dhs.gov. FEMA will investigate the incident pursuant to DHS standard procedures and will consult the Town of Fort Myers Beach, FL to diagnose, mitigate and manage the privacy incident. The Town of Fort Myers Beach, FL will be responsible for carrying out all necessary measures to remedy the effects of the privacy incident.

By accepting the FEMA data, the Town of Fort Myers Beach, FL agrees that it shall bear all costs, losses and damages to the extent resulting from the City's breach of FEMA data. The Town of Fort Myers Beach, FL further agrees to release, defend, indemnify, and hold FEMA harmless for claims, losses, penalties and damages, and reasonable attorneys' fees and costs to the extent arising out of the Town of Fort Myers Beach, FL or its contractor's, negligence, unauthorized use or disclosure of FEMA PII and/or the Town of Fort Myers Beach, FL, or its contractor's, breach of its obligations under this sharing.

By accepting, receiving, downloading, or otherwise obtaining the routine use information or data discussed in this document, Town of Fort Myers Beach, FL understands, agrees, and accepts the terms of the use of the data as outlined in this document.

I certify that this document is
a true copy of the original

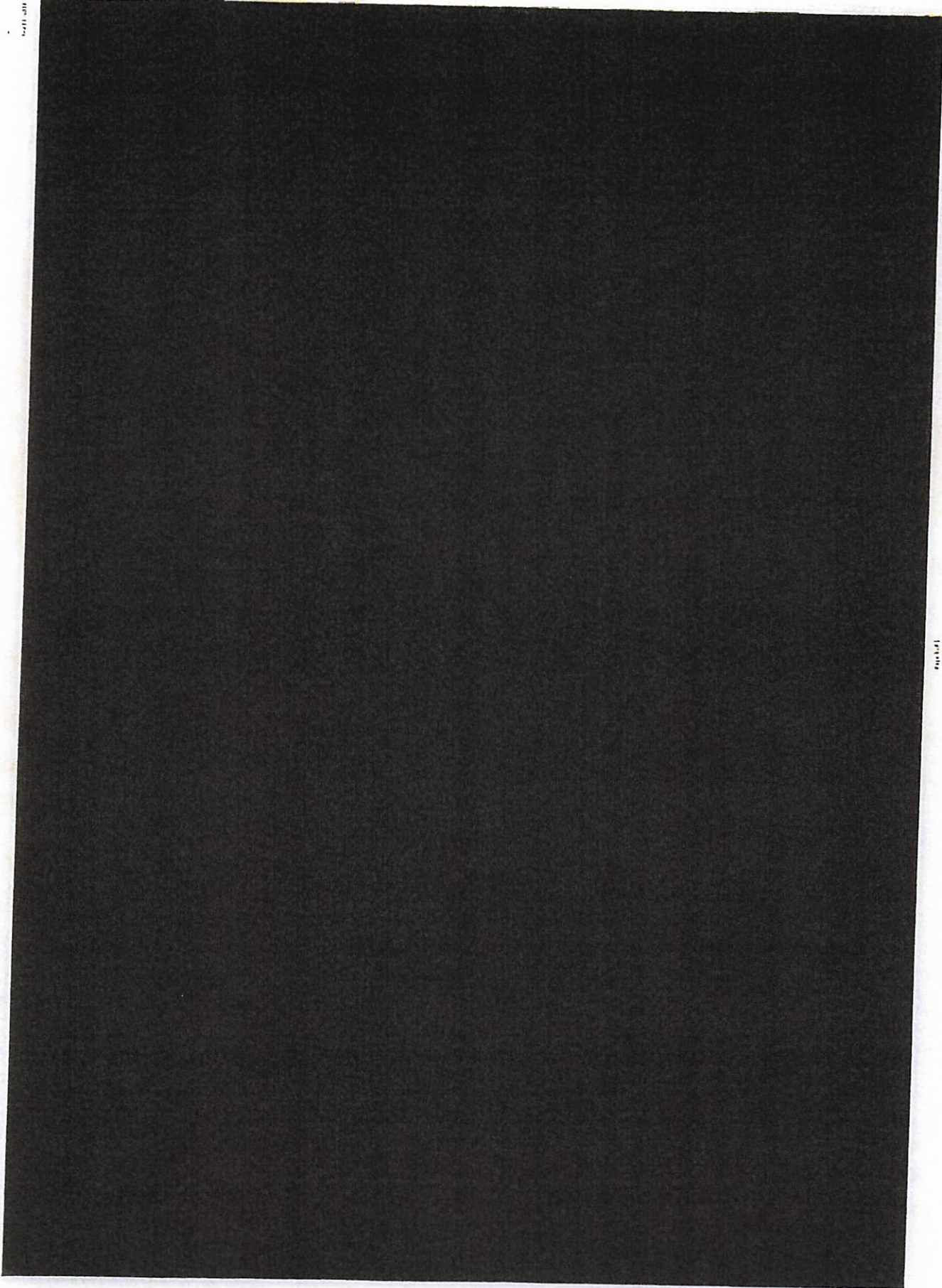
Signed: *[Signature]*

Date: 11/6/2025

I certify that this document is
a true copy of the original

Signed: Cindy Baker

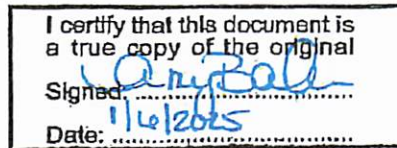
Date: 11/6/2025



I certify that this document is
a true copy of the original

Signed: Cebal

Date: 11/6/2025



FMBgov.com

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

VIA CERTIFIED U.S. MAIL AND ELECTRONIC MAIL

November 1, 2024

Federal Emergency Management Agency (FEMA)
U.S Department of Homeland Security
Region 4
3005 Chamblee Tucker Road
Atlanta, Georgia 30341

Attn: Robert D. Samaan
Regional Administrator
FEMA Region IV

RE: Removal of Shipping Containers and Temporary Structures
Town of Fort Myers Beach Post-Disaster Compliance Report

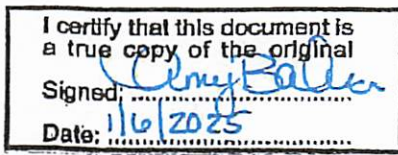
Dear Mr. Samaan,

The Town Council of the Town of Fort Myers Beach requested that we send this letter to you regarding the non-compliant structures (containers and temporary structures) in the Coastal High Hazard Area (VE zone and coastal A zone) referenced on page 2 of the Town of Fort Myers Beach Post-Disaster Compliance Status Update Report, dated July 19, 2024 ("Compliance Report"). The Compliance Report requires that the Town "provide a plan to remove the structures or bring the non-compliant structures or non-compliant additions into compliance" by November 18, 2024. The Town has been and continues to work diligently toward satisfying this requirement.

The most recent storms, Hurricanes Helene and Milton, have facilitated the removal of many of these containers and temporary structures. In fact, the recent removal of shipping containers and temporary structures as the impacts of these hurricanes threatened the Town, provided information regarding the ability to quickly disassemble

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | F. 239-765-0909 | 2731 Oak Street, Fort Myers Beach, FL 33931



and move shipping containers and temporary structures that was previously not available. For this reason, the Town Council gave direction to provide this information to you by letter.

More specifically, the owners of La Ola Surfside Restaurant, who use a 9'x 16' shipping container for a bar, were able to create a video demonstrating how quickly its shipping container could be disassembled and removed from its location on 1035 Estero Boulevard. The following is a link to the video, which has been widely circulated throughout the Fort Myers Beach Community.

https://drive.google.com/file/d/1vCBIleawpTJkXB1x877OIRInmTin2M8k9/view?usp=sharing_cil&ts=67237f46

La Ola Surfside Restaurant, as well as other businesses that temporarily operate out of shipping containers or other temporary structure, are important to the Fort Myers Beach community's recovery efforts immediately after these storms and since Hurricane Ian by providing a means to fulfill a basic human need: food.

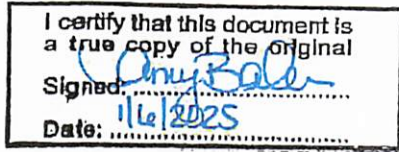
Moreover, as you are aware, the economy of a beach community such as Fort Myers Beach, is highly dependent on tourists, who visit the beach and support local businesses providing food service. In 2023-2024, the Town was awarded over \$1.5 million in tourist development dollars from the Lee County Tourist Development Board. These tourist dollars significantly assisted the Town with its recovery efforts post-Hurricane Ian and the delivery of municipal services to its residents.

In addition to tourists, the Town's economy is also highly dependent on its seasonal residents, who visit the Town from the fall through the end of spring each calendar year. Food service and other local businesses rely on the Town's seasonal residents as well as tourists to maintain operation during the winter season.

In view of the significant hardship on the operations of these businesses and the overall adverse economic impact on the Town, the Town is requesting your consideration to allow shipping containers and temporary structures, which are able to demonstrate that they can disassemble in a short period of time as evidenced in the La Ola Surfside Restaurant's video, to remain in place until June 1, 2025. An extension to June 1, 2025, would allow these local businesses to operate without interruption until the beginning of the next hurricane season.

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | F. 239-765-0909 | 2731 Oak Street, Fort Myers Beach, FL 33931



We appreciate your consideration of this request and look forward to discussing a limited extension of the November 18, 2024 deadline only for the removal of shipping containers and temporary structures, which can demonstrate the ability to quickly evacuate when a Hurricane Watch or Warning is issued to June 1, 2025. While this request is considered, the Town intends to continue its efforts achieve compliance with the November 18, 2024 deadline and removal of non-compliant shipping containers and temporary structures, such as La Ola Surfside Restaurant. Please do not hesitate to contact Frankie Kropacek, Operations & Compliance Director by phone at 239-955-3612 or by e-mail at fkropacek@fmbgov.com with any questions you may have. The Town looks forward to receiving a response to you regarding this request.

Sincerely,

Dan Allers, Mayor

Jim Atterholt, Vice Mayor

John R. King, Councilor

Karen Woodson, Councilor

Scott Safford, Councilor

Cc: Andrew Hyatt, Town Manager
Becky Vose, Town Attorney
Nancy Stuparich, Town Attorney
Amy Baker, Town Clerk
Frankie Kropacek, Operations & Compliance Director

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | F. 239-765-0909 | 2731 Oak Street, Fort Myers Beach, FL 33931

I certify that this document is
a true copy of the original

Signed: Carly Baker

Date: 11/6/2025

I certify that this document is
a true copy of the original
Signed: [Signature]
Date: 11/6/2025

U. S. Department of Homeland Security
Region 4
3005 Chamblee Tucker Road
Atlanta, GA 30341



FEMA

November 12, 2024

The Honorable Dan Allers
Mayor, Town of Fort Myers Beach
2731 Oak Street
Fort Myers Beach, FL 33931

Re: Removal of Shipping Containers and Temporary Structures Town of Fort Myers Beach Post
Disaster Compliance Report

Dear Mayor Allers:

I received the letter from the Fort Myers Beach Town Council requesting an extension for the removal of non-compliant shipping containers and temporary structures located in the Special Flood Hazard Area and Coastal High Hazard Area.

While I understand and appreciate the importance of these structures to the Town's economy and recovery, the Code of Federal Regulations that governs the National Flood Insurance Program defines the development in question as structures – not recreational vehicles. Because of this, the fact that the structures can be removed pre-event is not relevant as those conditions apply to recreational vehicles only. There are no regulations for temporary structures and occupancy which means all development in the Special Flood Hazard Area must meet the NFIP minimum standards and local floodplain management regulations. FEMA is not able to issue exemptions to the NFIP minimum standards nor extend the existence of non-compliant development.

The purpose of these regulations is to protect lives and property in the Special Flood Hazard Area. These non-compliant structures are in the most 'at risk' flood area, VE zone, also known as the Coastal High Hazard Area, which received a 14-foot storm surge during Hurricane Ian. Allowing these structures to remain in place presents a hazard to residents and businesses in the event of another storm as demonstrated by Hurricanes Helene and Milton. For these reasons I am unable to grant the Town's request to allow the structures in question to remain in place beyond the current deadline.

I certify that this document is a true copy of the original
Signed: <u>Jacky Bell</u>
Date: <u>11/6/2025</u>

You have my commitment to continue to support you and your team as you manage Hurricane Ian recovery and as you work to take the necessary compliance measures to avoid probation and possible suspension from the NFIP. If you have any questions or at any time need technical assistance to address these issues, please contact FEMA Region 4 Office, Jason Hunter, Floodplain Management and Insurance Branch chief, at Jason.hunter@fema.dhs.gov or 770-220-5471.

Sincerely,

Jacky S. Bell
Mitigation Division Director

cc: Kevin Guthrie, Executive Director, Florida Division of Emergency Management



FEMA

November 21, 2024

Andy Hyatt, Manager
Town of Fort Myers Beach
2731 Oak Street
Fort Myers Beach, FL 33931

Re: National Flood Insurance Program Participation

Dear Mr. Hyatt:

Once again, I'd like to thank you and your staff for the long hours and hard work during the last several months to correct the Town of Fort Myers Beach's issues regarding the National Flood Insurance Program (NFIP). Our teams have made great progress in helping ensure the city and their residents are more resilient and prepared for future storms.

On July 19, 2024, the Town received a letter from this office indicating the potential of being placed in probationary status with the NFIP if certain conditions were not met. These conditions consisted of five action items to be completed by November 18, 2024.

These action items were:

1. Develop and submit a plan that includes actions and timelines to address all identified program deficiencies and violations to the maximum extent possible.
2. Assess all floodplain development from Hurricane Ian in the Special Flood Hazard Area, ensuring that permits for all repairs, construction and development were obtained consistent with local floodplain management regulations.
3. Provide documentation that demonstrates your community is leveraging its code enforcement process to address new and existing code cases for all structures not confirmed as compliant.
4. Put a process in place to ensure substantial damage compliance for future events.
5. Remove noncompliant structures that were incorrectly permitted and should not have been placed in the Special Flood Hazard Area.

We appreciate that the Town of Fort Myers Beach accomplished the first and fourth action items by submitting a plan to address deficiencies and establishing a process to ensure substantial damage compliance for future events.

However, our teams have identified additional work that needs to occur for items 2, 3 and 5.

The crosswalk assessment tool created has not been completed by town officials which prevents both items 2 and 3 from being completed. For the 5th item, the town also did not remove non-compliant structures that were incorrectly permitted and should not have been placed in the Special Flood Hazard Area.

We acknowledge the work invested by you and your team has resulted in some improvements to meet minimum floodplain management standards. However, because of the outstanding compliance issues remaining, **the Town will be placed on probation with the National Flood Insurance Program effective November 18, 2024.**

During this probationary period, flood insurance coverage will remain available within the Town of Fort Myers Beach; however, a \$50 surcharge will be added to the premium of each new and renewed flood insurance policy sold within the community. Probation will remain in effect until all remaining program deficiencies and violations have been corrected to the maximum extent possible. Effective April 1, 2025, the town will be retrograded to a Class 10 in the Community Ratings System and policy premium discounts will not be applied to new or renewing policies. The Town is not eligible to reapply to the Community Rating System for a higher-class rating until the Town's probationary period is concluded, the Town is in full compliance with the minimum requirements of the National Flood Insurance Program, and at least two years has passed since the Town was placed in probationary status.

I am committed and I've instructed my staff that we will continue to provide technical assistance to Fort Myers Beach to meet the required program standards and potentially end probation as soon as practicable.

If you have any questions or at any time need technical assistance to address these issues, please contact FEMA Region 4 Office, Jacky Bell, Mitigation Division Director, at jacky.bell@fema.dhs.gov or 404-273-4710.

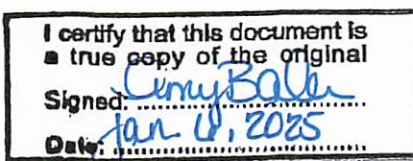
Sincerely,



Robert D. Samaan
Regional Administrator

cc:

Jason Hunter, Region Floodplain Management & Insurance Branch Chief
Jillian Kraynak, Florida NFIP State Coordinator



RESOLUTION NUMBER 24-296

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA ADOPTING A RESOLUTION TO REVOKE AND RESCIND EMERGENCY TEMPORARY PLACEMENT PERMITS AS PROVIDED AND AUTHORIZED IN SECTION 2 OF ORDINANCE 24-4 OF THE TOWN OF FORT MYERS BEACH, WHICH CLARIFIED ORDINANCE 23-05 RELATED TO TEMPORARY PLACEMENT PERMITS, IN FURTHERANCE AND IN SATISFACTION OF DIRECTION CONTAINED IN A LETTER DATED NOVEMBER 21, 2024 FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY ("FEMA") MANDATING REMOVAL OF NONCOMPLIANT STRUCTURES THAT WERE INCORRECTLY PERMITTED IN THE SPECIAL FLOOD HAZARD AREA, IN ORDER TO COMPLY WITH MINIMUM FLOODPLAIN STANDARDS AND THE REQUIREMENTS OF THE NATIONAL FLOOD INSURANCE PROGRAM; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article VIII, Section 2 of the State Constitution and Chapter 166 of the 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 services, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter empowers the Town Council to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, on September 28, 2022, Hurricane Ian made landfall north of the Town causing historical property damage and loss of life; and

WHEREAS, the Town Council recognized that recovery from a devastating natural disaster such as Hurricane Ian, created an immediate need for temporary housing, governmental services, and commercial uses for the Town's residents and adopted Ordinance 23-05 on May 15, 2023 to provide a temporary relief and the placement of certain structures in the Special Flood Hazard Area; and

WHEREAS, on May 6, 2024 the Town Council adopted Ordinance 24-04 amending and restating Ordinance 23-05 to clarify its intent at the time of adoption and to continue to provide temporary assistance to residents and to aid in the Town's redevelopment efforts by the emergency temporary placement of structures governmental, residential (manufactured homes, mobile homes, motor homes, recreational vehicles, or other temporary residential dwellings) or moveable commercial use; and

WHEREAS, both ordinances provided that permits issued under either Ordinance would be issued in increments of 6 months and would not exceed 18 months without demonstration of a hardship to the Town Manager; and

WHEREAS, Section 2 of Ordinance 24-04 further clarified that the Town Council intended permitted uses to be temporary in nature, and thereby subject to revocation and rescission at a future date under certain circumstances. More specifically, Paragraph 2 of Ordinance 24-04 identified several circumstances in which these temporary permitted uses required removal:

Unless otherwise provided in this Ordinance or in a Resolution that is adopted hereinafter 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 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. (Emphasis added).

WHEREAS, Section 2 of Ordinance 24-04(xi) also provided that the issued permit could be revoked for "noncompliance with applicable federal law/regulation, state law and town code"; and

WHEREAS, the number of outstanding temporary permits approved by the Town has decreased as a result of additional hurricanes impacting the Town subsequent to Hurricane Ian, the permitted rebuilding of destroyed properties; and the voluntary removal of the temporary permitted uses; and

WHEREAS, on July 19, 2024 and September 3, 2024, the Town was notified by the Federal Emergency Management Administration ("FEMA") that the Town would be placed on permanent probation from participation in the National Flood Insurance Program if it allowed structures needed for these temporary uses to continue subsequent to November 18, 2024 in the Special Flood Hazard Area; and

WHEREAS, Section 6-494 of the Town of Fort Myers Beach Land Development Code defines the Special Flood Hazard Area as "[a]n area in the floodplain subject to a one- percent or greater chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V. [Also defined in FBC, B Section 202.]", which in effect encompasses the entirety of the Town; and

WHEREAS, despite efforts by the Town Council to extend the November 18, 2024 FEMA deadline, the Town was notified by letter on November 21, 2024, that the Town was placed on probation with the National Flood Insurance Program effective November 18, 2024 in part due to its failure to "[r]emove noncompliant structures that were incorrectly permitted and should not have been placed in the Special Flood Hazard Area"; and

WHEREAS, in order to comply with minimum floodplain standards and the requirements of the National Flood Insurance Program, the Town must now revoke and rescind emergency temporary placement permits which allow noncompliant structures in the Special Flood Hazard Area; and

WHEREAS, the definition of a "structure" for floodplain management purposes pursuant to 44 CFR Part 59.1 includes "any walled and roofed building, manufactured home or travel trailer without wheels," and

WHEREAS, the definition of a "manufactured home" for floodplain management purposes pursuant to 44 CFR 59.1 is "a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle"; and

WHEREAS, adoption of this Resolution is in the best interest of the residents of the Town as a step towards removal of its probationary status in the National Flood Insurance Program and compliance with its floodplain regulations.

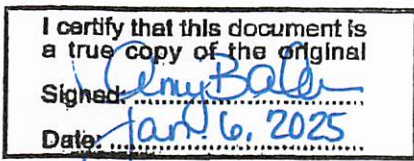
NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

Section 1. The foregoing "Whereas" clauses are ratified and confirmed as being true and correct, are the legislative and administrative findings of the Town Council and are made a specific part of this Resolution.

Section 2. All emergency temporary placement permits for "noncompliant structures that were incorrectly permitted and should not have been placed in the Special Flood Hazard Area" are hereby revoked and rescinded.

Section 3. The Town Manager is directed and authorized to immediately take the following actions to implement this Resolution:

1. Provide formal Notice to holders of any emergency temporary placement permit by certified mail, posting on the property and any other known method for notification that:
 - a) the permit is revoked and rescinded as of December 16, 2024; and
 - b) the permit holder may appeal this revocation action pursuant to Section 34-86 of the Code of Ordinances as stated in Section 4 of Ordinance 24-04, or by any other lawful means; and
 - c) the contact information for a member of the Town staff, who can answer questions and provide more information.



The Notice shall also include a copy of this Resolution and FEMA's letter of November 21, 2204

2. Initiate or continue any needed code enforcement action against permit holders who fail to immediately begin removal of noncompliant structures.

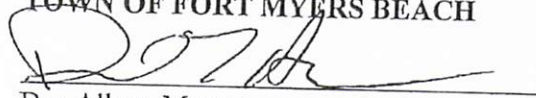
Section 4. This Resolution shall take effect immediately upon its adoption by the Town Council of the Town of Fort Myers Beach.

THE FOREGOING RESOLUTION was adopted by the Town Council upon motion by Mayor Allers and seconded by Vice Mayor Atterholt, and upon being put to a vote, the result was as follows:

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

APPROVED AND ADOPTED this 16th day of December 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, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 16th day of December 2024.



FEMA

July 24, 2025

The Honorable Will McKannay
Town Manager, Town of Fort Myers Beach
6231 Estero Blvd
Fort Myers Beach, FL 33931

Reference: National Flood Insurance Program (NFIP) Community Assistance Visit (CAV)
Report of Findings

Dear Mr. McKannay:

The purpose of this letter is to provide you with our findings from the CAV that the Federal Emergency Management Agency (FEMA) conducted from Tuesday, July 15, 2025, to Thursday, July 17, 2025. Thank you for the courtesy extended to Tamara Hansen, Pier Janrhett and Yuzzeff Henderson of FEMA Region 4 and Scott Gaines, of the Florida Department of Emergency Management (FDEM).

An introductory meeting was held by FEMA Specialists Tamara Hansen, Pier Janrhett, Yuzzeff Henderson Melendez, Scott Gaines with FDEM, yourself and members of the Town of Fort Myers Beach staff including Thomas Yozzo, Tracie Kohler, Kelly Defedericis, Frankie Kropacek, Georgina Cid, Shanette Thomas and Traci Raski. FEMA Region 4 Staff, Jacky Bell and Jason Hunter, Mr. Michael Burchette (FDEM) attended virtually. As stated during the meeting, we are very appreciative of the Town's efforts to prepare for the CAV and extended attendance of your staff for the duration of the CAV.

The purpose of this visit was to determine if the Town of Fort Myers Beach's floodplain management program is compliant with the minimum requirements of the National Flood Insurance Program. During this visit, outstanding sites identified in the Community Rating System (CRS) Retrograde appeal process in April 2024, were discussed. These sites were originally identified during field tours conducted in October and November 2023, following technical assistance visits after Hurricane Ian. During the permit reviews conducted as part of the CRS Retrograde appeal process, FEMA personnel identified various actions that were in violation of the Town's floodplain management program resulting in the community's probation from the National Flood Insurance Program. Subsequently, the Town was retrograded in CRS, effective April 1, 2025.

On April 28, 2025, the Town was notified that the requirement to be removed from probation under the NFIP had been met, effective November 18, 2025.

During the CAV, the Town of Fort Myers Beach's floodplain management program and the floodplain development permit process were reviewed and discussed. Additionally, a field tour was conducted to capture potential violations in the floodplain.

We have reviewed the Town's floodplain management regulations in Ordinance 24-03 and found that it meets the minimum requirement of the National Flood Insurance Program. We didn't find language adopting Limit of Moderate Wave Action requirements beyond the Florida Building Code, nor the state's accessory language which is based upon FEMA Policy #104-008-03. Please contact Scott Gaines at scott.gaines@em.myflorida.com if the Town is interested in adopting language related to either of these topics.

During the visit, the following programmatic deficiencies were identified and must be resolved:

1. Substantial Damage/Substantial Improvement Determination Process

○ *Concerns:*

- During the permit documentation review, evidence showed that permits were issued prior to a Substantial Damage/Substantial Improvement determination having been made by the Town, resulting in non-compliant structures that were potentially Substantial Damaged/Substantial Improved and repaired without being brought into compliance with the Town's floodplain management regulations.
- Additionally, the permitting staff who reviewed and issued permits didn't have access to Substantial Damage determinations list, which lead to permits being issued for structures that had been deemed to be Substantially Damaged, without ensuring the structures were brought into compliance with the Town's floodplain management regulations.
- Some of the cost to repair estimates seem to only include costs to repair damages located below the base flood elevation.
- In the Town's Substantial Damage Management Plan, November 2024-Draft, *Cost of Work Verification – Pre-Permit Issuance* section, it indicates that verification of repairs and associated cost to repair the structure will be accounted for before issuing a building permit.
-

○ *Corrective actions require:*

- On or before August 8, 2025, provide a Standard Operating Procedure that documents the Substantial Damage/Substantial Improvement Determination Process and the permitting process. This should include how determinations are shared with staff who process permit applications.

2. Floodplain reviews related to Private Providers

○ *Concerns:*

- The Town requires Under Construction Elevation Certificates to be submitted and approved, before the building's construction goes vertical.
- Private providers aren't complying with this requirement. Permits that were reviewed for documented structures well beyond this tie-beam inspection that had failed to submit Under Construction Elevation Certificates.
- Failure to take corrective actions can result in non-compliant structures being identified after construction has been completed.

○ *Corrective actions require:*

- On or before August 8, 2025, provide revised permitting process procedures and any supporting documentation that addresses failure by the Private Providers to meet the Town's requirement for submittal of the Under Construction Elevation Certificate.

3. The Town adopted the following ordinances to allow temporary placement of various types of units: "Temporary Placement of Emergency Uses, Manufactured Homes, Mobile Homes, Motor Homes, Recreational Vehicles Other Temporary Residential Dwelling or Temporary Moveable Commercial Units" (Ordinance 23-05), "Temporary Governmental, Residential (Manufactured Homes, Mobile Homes, Motor Homes, Recreational Vehicles Other Temporary Residential Dwellings) or Movable Commercial Uses following Natural Disasters or Other Emergencies" (Ordinance 24-04), and "RESOLUTION TO REVOKE AND RESCIND EMERGENCY TEMPORARY PLACEMENT PERMITS" (Resolution Number 24-296).

▪ *Concerns:*

- Ordinance 23-05 and 24-04 authorized installation of non-compliant temporary units.
- Resulted in numerous non-compliant temporary units. Some have been removed, while others are still present.
- Resolution Number 24-296 (approved December 16, 2024) "mandated removal of noncompliant structures that were incorrectly permitted," but numerous noncompliant structures remain in place.

▪ *Corrective actions require:*

- On or before August 8, 2025, remove the non-compliant temporary structures.

During the field tour, data for 252 sites was collected. The list of addresses includes sites that fall into the following categories: 1) non-compliant structures that need to be mitigated, 2) structures that require additional documentation to determine compliance, and 3) temporary structures that need to be elevated and anchored or removed. The list of site addresses with the required action/documentation are in the attached Site List.

Following the field tour, an exit meeting was held with the Town, FEMA, and FDEM staff on July 17, 2025. FEMA's findings of the community's floodplain management program and the floodplain development permit process were discussed. As stated in the meeting, we ask that you review each program deficiency and the attached site list. The deadline to submit the requested documents or documented actions is August 8, 2025.

We recommend that the staff who support the administration and enforcement of the Town's floodplain management program, including code enforcement staff, also attend floodplain management training courses. FEMA's National Disaster and Emergency Management University (NDEMU) and the Florida Floodplain Managers Association (FFMA) offer various floodplain management-related training courses for local officials. For your convenience, web addresses for NDEMU's and FFMA's website are provided below:

www.training.fema.gov
flfloods.org

We appreciate the Town of Fort Myers Beach's commitment to administering the NFIP. We would like to remind you that the requirement for participation in the CRS is your community's full compliance with the NFIP. Again, we request that the Town provide the requested documentation by August 8, 2025, for consideration of reinstatement to the CRS program on April 1, 2026. If your staff members have questions or require additional information, Ms. Tamara Hansen may be reached by telephone at (770) 220-5288 or by e-mail at tamara.hansen@fema.dhs.gov and Pier Janrhett may be reached by telephone at (202) 826-5655 or by e-mail at pier.janrhett@fema.dhs.gov.

Sincerely,

Jacky S. Bell
Director
Mitigation Division

Attachment: Site List

Cc: Ms. Jillian Kraynak, Florida NFIP State Coordinator
Ms. Traci Kohler, Deputy Town Manager, Town of Fort Myers Beach
Ms. Kelli Defedericis, Floodplain Administrator, Town of Fort Myers Beach
Mr. Tom Yozzo, Emergency Services Director, Town of Fort Myers Beach
Mr. Frankie Kropacek, Operations & Compliance Director, Town of Fort Myers Beach

HEARING

EXHIBIT

C

- Notice of Violation



Town of Fort Myers Beach

CODE COMPLIANCE

2731 Oak Street Fort Myers Beach, FL 33931
Phone: (239) 765-0202 Fax: (239) 765-0909

07/29/2025

Case Number:	20250781
Certified Mail:	70222410000084701709
Regular Mail	Standard 1st Class

TOP GROUP INVESTMENTS LLC
2423 SW 147TH AVE #204
MIAMI, FL 33185

SITE ADDRESS: 269 DRIFTWOOD LN
PARCEL STRAP NO: 344624W40010C0170

NOTICE OF VIOLATION

YOU ARE HEREBY NOTIFIED that an inspection of the above-referenced property on by Town of Fort Myers Beach Code Enforcement Officer indicates that the following items are in violation:

For the keeping and/or maintaining of non-compliant structure(s) and/or shipping containers on property, which are not built to current flood design codes in the Special Hazard Areas as defined in Section 6-494 of the FMB Code of Ordinances.

These items are a violation of the following Town Codes:

ASCE 24-14 A copy is available at https://www.fema.gov/sites/default/files/2020-07/asce24-14_highlights_jan2015.pdf

Sec. 6-501. - Design and construction of buildings, structures and facilities exempt from the Florida Building Code. Pursuant to section 6-443, buildings, structures and facilities that are exempt from the Florida Building Code, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, must be designed and constructed in accordance with the flood load and flood-resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that are not walled and roofed buildings must comply with the requirements of division 10, subdivision VII.

Sec. 6-525. - General requirements for other development. All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this article or the Florida Building Code, must:

(1)Be located and constructed to minimize flood damage;(2)Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;(3)Be constructed of flood damage-resistant materials; and(4)Have mechanical, plumbing and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

COMPLIANCE:

The following action is needed to bring the violation(s) into compliance. 1)Remove Structure(s) and/or Shipping Containers from property. 2) Provide proof of compliance with the requirements of Chapter 6, Article IV Division Section 6-501 and 5-525 of the Land Development Code..

You are hereby directed to bring these violations into compliance within 15 Days.

ONCE THIS VIOLATION(S) IS (ARE) IN COMPLIANCE, IT IS YOUR OBLIGATION TO NOTIFY CODE ENFORCEMENT SO THAT THE PROPERTY CAN BE INSPECTED TO VERIFY THAT THE VIOLATION(S) HAS (HAVE) BEEN CORRECTED ON OR BEFORE THE ABOVE-SPECIFIED COMPLIANCE DATE.

If you fail to correct the violation(s) by the date specified above, or if the violation(s) is (are) brought into compliance and reoccur(s), the case may be scheduled for hearing before the Town of Fort Myers Beach Special Magistrate. The Code Enforcement Division may, in their discretion, schedule the case for a hearing and seek a finding of a violation by the Special Magistrate even if you have corrected the violation prior to the time set for the hearing.

You will be provided with a Notice of Hearing specifying the date, time and location of the hearing if one is scheduled. Please be aware that under Florida Statutes, Chapter 162 and Town of Fort Myers Beach Land Development Code, Section 2-427(b), a fine of up to \$250.00 per day for the first violation or \$500.00 per day for a repeat violation may be imposed for each day the violation continues to exist past the date set for compliance by the Special Magistrate. If the Special Magistrate finds that a violation is irreparable or irreversible in nature, a fine of up to \$5,000.00 per violation may be imposed. The Special Magistrate may also assess the costs of prosecution of the case against you and you may be required to pay those fees, even if the violation has been corrected prior to the hearing.

Please contact the Town of Fort Myers Beach Code Enforcement Division at 239-220-6458 or code@fmbgov.com if you have any questions concerning this Notice of Violation.

Respectfully,

Code Enforcement Officer
Town of Fort Myers Beach



FMBgov.com

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

TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

TOP GROUP INVESTMENTS LLC
2423 SW 147TH AVE #204
MIAMI, FL 33185

FMB Case Number:	20250781
Certified Mail:	70222410000084701709 70222410000084701716
Regular Mail:	
DOAH Case Number:	[Not Applicable]

Respondent,

Site Address: 269 Driftwood Ln,
Fort Myers Beach, FL, 33931
Parcel Strap No. 33-46-24-W4-0010C.0170

AFFIDAVIT OF NOTICE AND POSTING

STATE OF FLORIDA

COUNTY OF LEE

BEFORE ME, the undersigned authority, personally appeared T. Hoffman who is the Code Enforcement Officer for the Town of Fort Myers Beach, who was sworn and under oath, deposes and says the following regarding case #20250781. For the keeping and/or maintaining of non-compliant structure(s) and/or shipping containers on property, which are not built to current flood design codes in the Special Hazard Areas as defined in Section 6-494 of the FMB Code of Ordinances. 269 Driftwood Ln Fort Myers Beach. FL 33931 attached

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | 2731 Oak Street, Fort Myers Beach, FL 33931

Page 1 | 3



1. I personally mailed by certified mail a copy of the Notice of Violation 7/29/2025 to the following:

TOP GROUP INVESTMENTS LLC
2423 SW 147TH AVE #204
MIAMI, FL 33185

CANCIO RODRIGUEZ, ENNY
2423 SW 147TH AVE #204
MIAMI, FL 33185

(Property Owner)

Copies of the certified mailing receipts are attached as evidence.

2. I had a copy of the Notice posted at 269 Driftwood Ln, Fort Myers Beach, FL 33931, which is the subject property. I took a photographs of the Notice I posted on the 29th day of July 2025. A true, accurate and unaltered copy of the photographs are attached.
3. I posted a copy of the Notice at the primary municipal government office for the Town of Fort Myers Beach, which is Town Hall and located at 6231 Estero Blvd, Fort Myers Beach, FL 33931 in the book and to a window for availability to view 24 hours a day and 7 days a week. True, accurate and unaltered copies of photographs I took of the Notice posted on the 29th day of July 2025 are attached.



FMBgov.com

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

Under penalties of perjury, I declare that I have read the foregoing affidavit and that the facts stated in it are true and to the best of my knowledge and belief comply with Section 2-429 of the Town Land Development Code and Section 162.12, Florida Statutes.

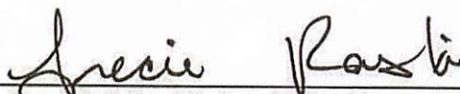
x 
Signature of Affiant

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was sworn to, subscribed and acknowledged before me by means of either ☒ personal presence or ☐ online notarization this 29 day of July, 2025, by T. Hoffman. He ☒ is personally known to me or ☐ has produced _____ as identification.



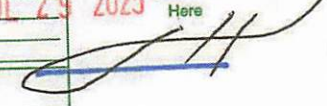
[Notary Seal]


Notary Public, State of Florida
Print Name: Tracie Raski
My Commission Expires: 2/3/2029

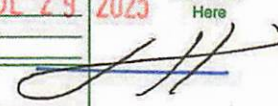
FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | 2731 Oak Street, Fort Myers Beach, FL 33931

7022 2410 0000 8470 1709

U.S. Postal Service™ CERTIFIED MAIL® RECEIPT Domestic Mail Only	
For delivery information, visit our website at www.usps.com ®.	
OFFICIAL USE	
Certified Mail Fee	\$ 20250781
Extra Services & Fees (check box, add fee as appropriate)	Town of Fort Myers Beach
☐ Return Receipt (hardcopy)	\$
☐ Return Receipt (electronic)	\$
☐ Certified Mail Restricted Delivery	\$ JUL 29 2025 Postmark Here
☐ Adult Signature Required	\$
☐ Adult Signature Restricted Delivery	\$
Postage	Sent by: 
Total Postage and Fees	\$ 269 DRIFTWOOD LN
TOP GROUP INVESTMENTS LLC 2423 SW 147TH AVE #204 MIAMI, FL 33185	
PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions	

7022 2410 0000 8470 1716

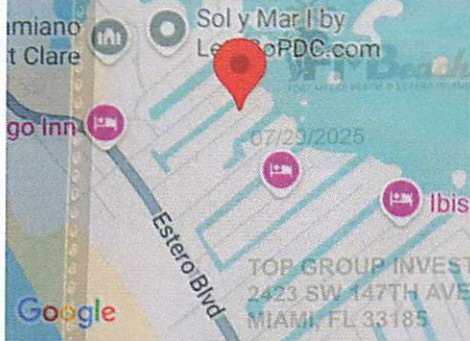
U.S. Postal Service™ CERTIFIED MAIL® RECEIPT Domestic Mail Only	
For delivery information, visit our website at www.usps.com ®.	
OFFICIAL USE	
Certified Mail Fee	\$ 20250781
Extra Services & Fees (check box, add fee as appropriate)	Town of Fort Myers Beach
☐ Return Receipt (hardcopy)	\$
☐ Return Receipt (electronic)	\$
☐ Certified Mail Restricted Delivery	\$ JUL 29 2025 Postmark Here
☐ Adult Signature Required	\$
☐ Adult Signature Restricted Delivery	\$
Postage	Sent by: 
Total Postage and Fees	\$ 269 DRIFTWOOD LN
CANCIO RODRIGUEZ, ENNY 2423 SW 147TH AVE #204 MIAMI, FL 33185	
PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions	

Town of Fort Myers Beach

CODE COMPLIANCE

2731 Oak Street Fort Myers Beach, FL 33931
Phone: (239) 765-0202 Fax: (239) 765-0909

Fort Myers Beach



Case Number:	20250781
Certified Mail:	70222410000084701709
Regular Mail:	Standard 1st Class

SITE ADDRESS: 269 DRIFTWOOD LN
PARCEL STRAP NO: 344624W40010C0170

NOTICE OF VIOLATION

YOU ARE HEREBY NOTIFIED that an inspection of the above-referenced property on by Town of Fort Myers Beach Code Enforcement Officer indicates that the following items are in violation:

For the keeping and/or maintaining of non-compliant structure(s) and/or shipping containers on property, which are not built to current flood design codes in the Special Hazard Areas as defined in Section 6-494 of the FMB Code of Ordinances.

These items are a violation of the following Town Codes:

ASCE 24-14 A copy is available at https://www.fema.gov/sites/default/files/2020-07/asce24-14_highlights_jan2015.pdf

Sec. 6-501. - Design and construction of buildings, structures and facilities exempt from the Florida Building Code. Pursuant to section 6-443, buildings, structures and facilities that are exempt from the Florida Building Code, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, must be designed and constructed in accordance with the flood load and flood-resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that are not walled and roofed buildings must comply with the requirements of division 10, subdivision VII.

Sec. 6-525. - General requirements for other development. All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this article or the Florida Building Code, must:

(1)Be located and constructed to minimize flood damage;(2)Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;(3)Be constructed of flood damage-resistant materials; and(4)Have mechanical, plumbing and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

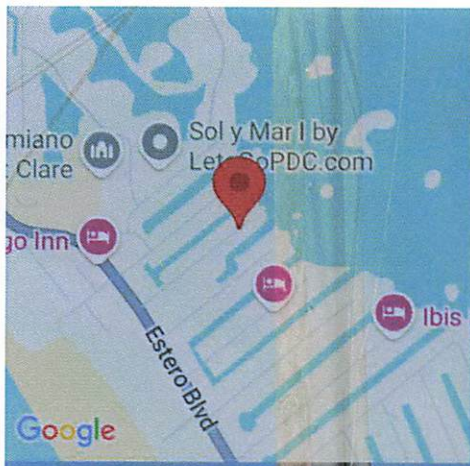
COMPLIANCE:

The following action is needed to bring the violation(s) into compliance. 1)Remove Structure(s) and/or Shipping Containers from property. 2) Provide proof of compliance with the requirements of Chapter 6, Article IV Division Section 6-501 and 5-525 of the Land Development Code..

You are hereby directed to bring these violations into compliance within 15 Days.

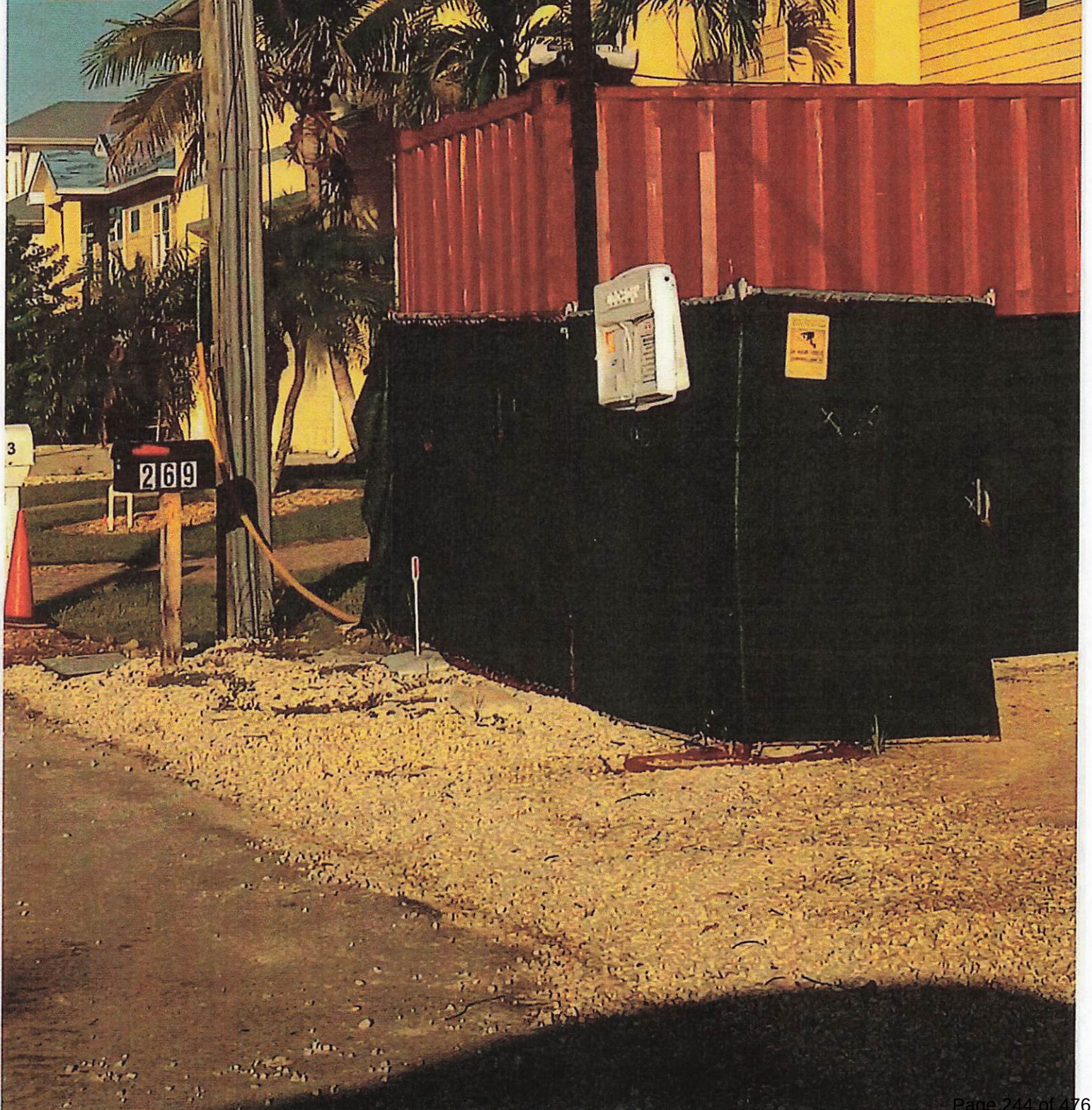
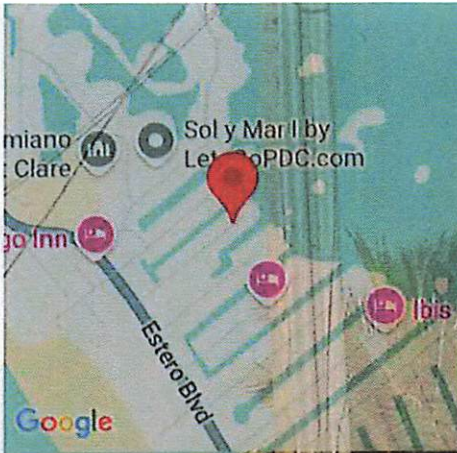
ONCE THIS VIOLATION(S) IS (ARE) IN COMPLIANCE, IT IS YOUR OBLIGATION TO NOTIFY CODE ENFORCEMENT SO THAT THE PROPERTY CAN BE INSPECTED TO VERIFY THAT THE VIOLATION(S) HAS (HAVE) BEEN CORRECTED ON OR BEFORE THE ABOVE-SPECIFIED COMPLIANCE DATE.

Jul 29, 2025 11:57:01 AM
Fort Myers Beach



Jul 29, 2025 7:59:38 AM

Fort Myers Beach





Jul 29, 2025 10:58:07 AM
Fort Myers Beach

Town of Fort Myers Beach
CODE COMPLIANCE
2731 Oak Street Fort Myers Beach, FL 33931
Phone: (239) 765-0202 Fax: (239) 765-0909

07/29/2025

Case Number:	20250781
Certified Mail:	7022241000084701705
Regular Mail:	Standard 1st Class

TOP GROUP INVESTMENTS LLC
2423 SW 147TH AVE #204
MIAMI, FL 33185

SITE ADDRESS: 269 DRIFTWOOD LN
PARCEL STRAP NO: 344624W40010C0170

NOTICE OF VIOLATION

YOU ARE HEREBY NOTIFIED that an inspection of the above-referenced property on by Town of Fort Myers Beach Code Enforcement Officer indicates that the following items are in violation:

For the keeping and/or maintaining of non-compliant structure(s) and/or shipping containers on property, which are not built to current flood design codes in the Special Hazard Areas as defined in Section 6-494 of the FMB Code of Ordinances.

These items are a violation of the following Town Codes:

ASCE 24-14 A copy is available at https://www.fema.gov/sites/default/files/2020-07/asce24-14_highlights_jan2015.pdf

Sec. 6-501. - Design and construction of buildings, structures and facilities exempt from the Florida Building Code. Pursuant to section 6-443, buildings, structures and facilities that are exempt from the Florida Building Code, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, must be designed and constructed in accordance with the flood load and flood-resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that are not walled and rooted buildings must comply with the requirements of division 10, subdivision VII.

Sec. 6-525. - General requirements for other development. All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this article or the Florida Building Code, must:

(1)Be located and constructed to minimize flood damage;(2)Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;(3)Be constructed of flood damage-resistant materials; and(4)Have mechanical, plumbing and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

COMPLIANCE:

The following action is needed to bring the violation(s) into compliance. 1)Remove Structure(s) and/or Shipping Containers from property. 2) Provide proof of compliance with the requirements of Chapter 6, Article IV Division Section 6-501 and 5-525 of the Land Development Code..

You are hereby directed to bring these violations into compliance within 15 Days.

ONCE THIS VIOLATION(S) IS (ARE) IN COMPLIANCE, IT IS YOUR OBLIGATION TO NOTIFY CODE ENFORCEMENT SO THAT THE PROPERTY CAN BE INSPECTED TO VERIFY THAT THE VIOLATION(S) HAS (HAVE) BEEN CORRECTED ON OR BEFORE THE ABOVE-SPECIFIED COMPLIANCE DATE.

HEARING

EXHIBIT

D

- Status of Compliance



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

09/15/2025

TOWN OF FORT MYERS BEACH,
Petitioner,

vs.

TOP GROUP INVESTMENTS LLC
Respondent.

Case Number:	20250781
Certified Mail:	N/A
Regular Mail:	Standard 1 st Class

Site Address: 269 DRIFTWOOD LN
Parcel Strap No.: 34-46-24-W4-0010C.0170

AFFIDAVIT OF COMPLIANCE

STATE OF FLORIDA)
COUNTY OF LEE)

BEFORE ME, the undersigned authority, personally appeared Thomas Yozzo, Code Enforcement Director for the Town of Fort Myers Beach, FL, who after being duly sworn, deposes and says:

1. I, Thomas Yozzo, am a person authorized by law to inspect violations of the Town of Fort Myers Beach Code contained herein and the statements set forth herein are based upon personal knowledge.

2. TOP GROUP INVESTMENTS LLC
(property owner) was observed in violation of

ASCE 24-14 A copy is available at https://www.fema.gov/sites/default/files/2020-07/asce24-14_highlights_jan2015.pdf

For the keeping and/or maintaining of non-compliant structure(s) and/or shipping containers on property, which are not built to current flood design codes in the Special Hazard Areas as defined in Section 6-494 of the FMB Code of Ordinances. (Coastal A Zone for this property requires the lowest horizontal structural floor cross be at 13 feet above base flood level)

Sec. 6-501. – Design and construction of buildings, structures and facilities exempt from the Florida Building Code. Pursuant to section 6-443, buildings, structures and facilities that are exempt from the Florida Building Code, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, must be designed and constructed in accordance with the flood load and flood-resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that are not walled and roofed buildings must comply with the requirements of division 10, subdivision VII.

Sec. 6-525. – General requirements for other development. All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this article or the Florida Building Code,

must:

(1)Be located and constructed to minimize flood damage;(2)Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;(3)Be constructed of flood damage-resistant materials; and(4)Have mechanical, plumbing and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

At the property located at 269 Driftwood Ln, Fort Myers Beach, FL 33931 ("Subject Property").

3. A Notice of Violation was issued on July 29th , 2025, and sent certified mail & Standard 1st Class mail to the address of record, 2423 SW 147th Ave #204, Miami, FL 33185, posted to the violation property located at 269 Driftwood Ln, Fort Myers Beach, FL 33931, and posted to Town Hall located at 2731 Oak St., Fort Myers Beach, FL 33931.
4. **TOP GROUP INVESTMENTS LLC** was/were given 30 days to come into compliance with the Town of Fort Myers Beach Ordinance, which was on or before 08/29/2025.
5. **TOP GROUP INVESTMENTS LLC** was scheduled to appear before the Florida Division of Administrative Hearings Magistrate on October 1st ,2025. The case is fully prepared and ready for trial.
6. I performed an inspection of the Subject Property on September 15th , 2025, and the Subject Property was observed to be compliant with the Town of Fort Myers Beach Ordinance.
7. I have attached photographs, of the Subject Property, which I personally took, and which fairly represent the current condition of the Subject Property I observed on September 15th , 2025. These photographs are true, unaltered and accurate. Presented into evidence to the court on October 1st ,2025 and placed into **Hearing Exhibit B1**
8. I have personal knowledge of all these facts, and each is true to the best of my knowledge and belief.
9. The Town of Fort Myers Beach hereby has determined the property located at 269 Driftwood Ln is in compliance with Fort Myers Beach Code of Ordinances.

FURTHER AFFIANT SAYETH NAUGHT.



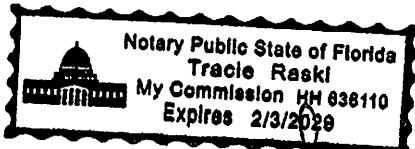
Signature of Affiant

STATE OF FLORIDA

COUNTY OF LEE

The foregoing instrument was certified and subscribed before me by means of ☒ physical presence OR ☐ online notarization, this 16 day of September, 2025, by T. Yoro, ☒ who is personally known to me OR ☐ who has produced _____ as identification.

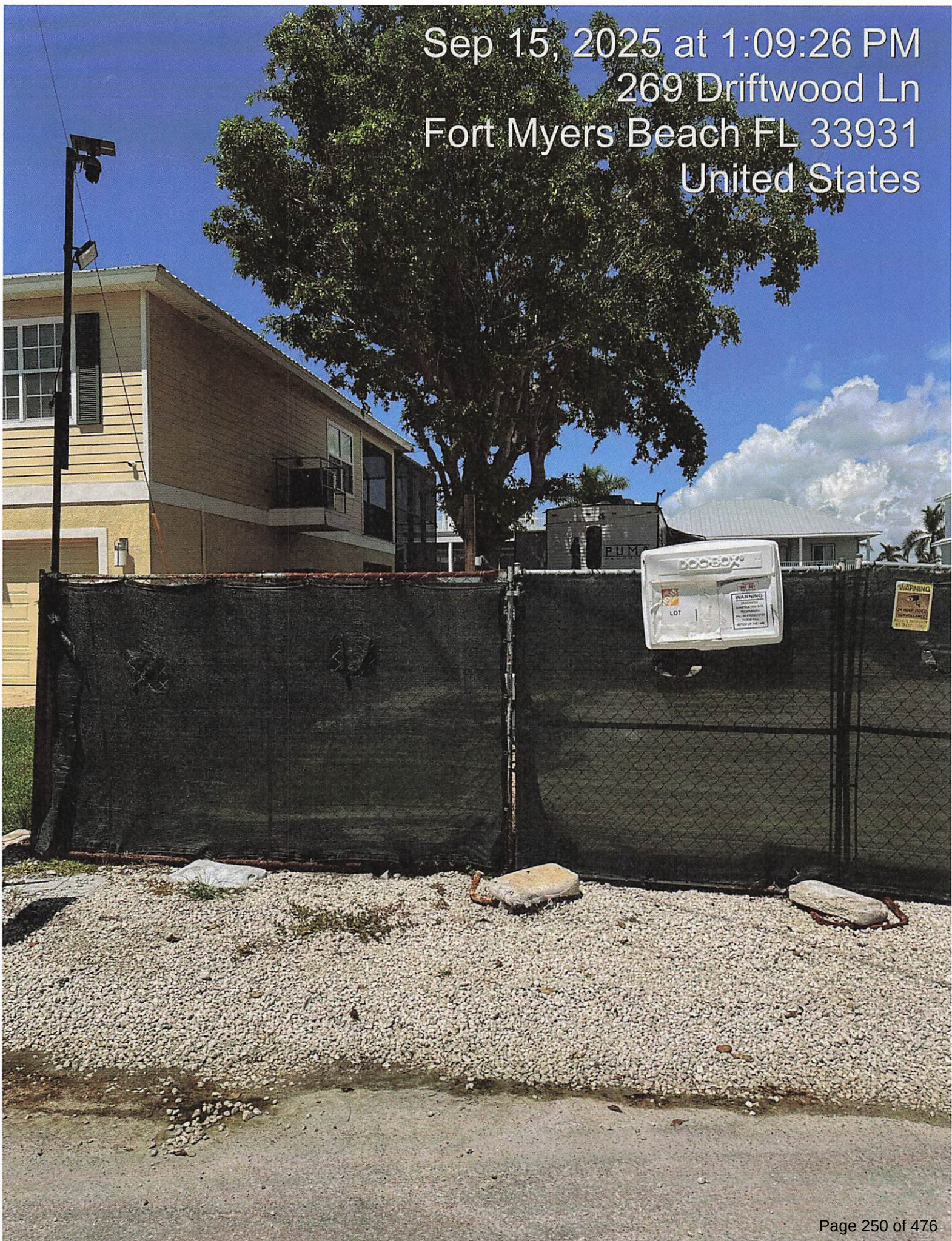
(SEAL)



Notary Public Signature: _____



Sep 15, 2025 at 1:09:26 PM
269 Driftwood Ln
Fort Myers Beach FL 33931
United States



Sep 15, 2025 at 1:09:13 PM
269 Driftwood Ln
Fort Myers Beach FL 33931
United States



HEARING

EXHIBIT

E

- Violated Regulations

Sec. 6-501. - Design and construction of buildings, structures and facilities exempt from the Florida Building Code.

Pursuant to ~~section 6-443~~, buildings, structures and facilities that are exempt from the Florida Building Code, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, must be designed and constructed in accordance with the flood load and flood-resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that are not walled and roofed buildings must comply with the requirements of division 10, subdivision VII.

(Ord. No. 16-02, § 2, 8-8-2016)

Sec. 6-525. - General requirements for other development.

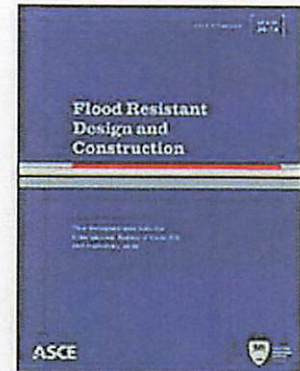
All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this article or the Florida Building Code, must:

- (1) Be located and constructed to minimize flood damage;
- (2) Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
- (3) Be constructed of flood damage-resistant materials; and
- (4) Have mechanical, plumbing and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

(Ord. No. 16-02, § 2, 8-8-2016)

HIGHLIGHTS OF ASCE 24-14 *Flood Resistant Design and Construction*

Published by the American Society of Civil Engineers (ASCE), *Flood Resistant Design and Construction*, ASCE 24, is a referenced standard in the *International Codes*[®] (I-Codes[®]). ASCE 24 states the minimum requirements and expected performance for the siting and design and construction of buildings and structures in flood hazard areas that are subject to building code requirements. Types of buildings and structures are described in ASCE 24-14, Table 1-1 (see page 5 of these Highlights), and include commercial, residential, industrial, educational, healthcare, critical facilities, and other occupancy types. Buildings and structures designed according to ASCE 24 are better able to resist flood loads and flood damage.



FEMA deems ASCE 24 to meet or exceed the minimum National Flood Insurance Program (NFIP) requirements for buildings and structures. ASCE 24 includes additional specificity, some additional requirements, and some limitations that are not in NFIP regulations.

Buildings and structures within the scope of the IBC and proposed to be located in any flood hazard area must be designed in accordance with ASCE 24. The 2015 I-Codes reference ASCE 24-14, while the 2006 through 2012 I-Codes reference ASCE 24-05. The *International Residential Code*[®] requires dwellings in floodways to be designed in accordance with ASCE 24, and the 2015 edition of the IRC allows use of ASCE 24 for dwellings in any flood hazard area (the 2012 and 2009 editions allow use of ASCE 24 in Coastal High Hazard Areas).

Highlights of ASCE 24-14 that complement the NFIP minimum requirements are described below.

A summary of significant technical revisions from ASCE 24-05 to ASCE 24-14 is reproduced on page 6 of these Highlights.

Building Performance

- Flood loads and other loads and load combinations are specified in ASCE 7-10, *Minimum Design Loads for Buildings and Other Structures*. Performance of foundations exposed to flooding is specified in ASCE 24. Soil characteristics and underlying strata, including soil consolidation, expansion or movement, erosion and scour, liquefaction and subsidence must be considered, as applicable.
- Flood Design Classes replace Occupancy/Risk Categories for the purpose of establishing elevations of lowest floors, flood-resistant materials, equipment and floodproofing. The 2015 *International Building Code* requires designers to identify the Flood Design Class assigned in accordance with ASCE 24-14.
- Elevation and Freeboard (additional height above the NFIP's base flood elevation) are specified as a function of the Flood Design Class and the nature of the flood hazard areas (see table on page 4 of these Highlights). Essential facilities (Flood Design Class 4) must be elevated or protected to the BFE + 2 ft or 500-year flood elevation, whichever is higher.
- Elevation requirements in Zone V and Coastal A Zones are independent of orientation of the lowest horizontal structural member (relative to direction of wave approach) as a factor in determining the required freeboard (ASCE 24-05 made elevation a function of orientation of the lowest horizontal structural member relative to the direction of wave approach).

ASCE 24 uses 'design flood' and 'design flood elevation' to acknowledge that some communities adopt flood hazard maps that depict flood hazard areas in addition to Special Flood Hazard Areas shown on FEMA's Flood Insurance Rate Maps (FIRM).

The design flood elevation (DFE) equals the base flood elevation (BFE) in communities that regulate based on FIRMs. The DFE is always equal to or higher than the BFE.

- Fill is required to be stable under conditions of flooding, including rapid rise and rapid drawdown, prolonged inundation, and erosion and scour. Compaction of structural fill is specified unless otherwise required by the building code or in a geotechnical or engineering report. Fill side slopes must be no steeper than 1:1.5.
- Two methods are specified to meet the requirements for flood openings in walls of enclosures below elevated buildings, to allow for the automatic entry and exit of floodwater: nonengineered openings that do not require certification (1 sq in per sq ft of enclosed area) and engineered openings that must be certified by a registered design professional. The performance of engineered openings must account for the presence of louvers, blades, screens, grilles, faceplates, or other covers and devices and must ensure that the difference between the exterior and interior floodwater levels does not exceed 1 foot. Installation of all flood openings must be in at least two walls and must be no more than 1 foot above the higher of the interior grade or floor and the finished exterior grade immediately under each opening.
- All breakaway walls in all flood hazard areas must have flood openings (ASCE 24-05 did not require flood openings in Zone V breakaway walls).
- Provisions are included for attached and detached decks and porches, and for garages, carports, and accessory storage structures.
- Provisions are listed for concrete slabs-on-grade, depending on the purpose and location of the slabs.
- Stairways and ramps must be designed and constructed to resist flood loads and to minimize transfer of flood loads to foundations, or to break away without causing damage to the main structure, or to be retractable/able to be raised.
- Where stairways are located inside areas enclosed with breakaway walls, exterior doors are required at the main building entry at the top of the stairs, to minimize entry of wind-driven rain and wave splash after breakaway walls have failed.
- In Coastal High Hazard Areas (Zone V) and Coastal A Zones:
 - Coastal A Zones are treated like Coastal High Hazard Areas if FEMA has delineated a Limit of Moderate Wave Action, or if the community has designated a Coastal A Zone.
 - Buildings must be supported on piles, drilled shafts, caissons, or other deep foundations (including columns, and shear walls) and foundation depth must take into account erosion and local scour.
 - Stem walls supporting floors and backfilled with soil or gravel are allowed in Coastal A Zones if designs provide for the effects of local scour and erosion.
 - Requirements are included for shallow foundations in circumstances where soil conditions prevent deep foundations.
 - Provisions are provided for pile foundations, attachment to piles, and different types of piles (wood, steel H, concrete-filled steel pipe, prestressed concrete, precast concrete, cast-in-place concrete).
 - Provisions are provided for pile design (capacity, capacity of supporting soils, minimum penetration, spacing, connections, splicing, and mixed and multiple types of piles).
 - Provisions are provided for footings, mats, rafts, slabs-on-grade, pile caps, grade beams, bracing, and shear walls.
 - Walls designed to break away must not produce debris that is capable of damaging structures.
 - Erosion control structures (bulkheads, seawalls, revetments) must not be attached to buildings or direct floodwater into or increase flood forces or erosion impacts on structures.
 - Pools must be elevated, or designed to breakaway without producing damaging debris, or designed to remain in the ground without obstructing flow that causes damage. Pools must be structurally independent of buildings and structures unless pools are located in or on elevated floors or roofs that are above the design flood elevation.

- Dry floodproofed nonresidential buildings and non-residential portions of mixed-use buildings:
 - The terms “mixed use” and “residential portions of mixed use” now are defined in Commentary.
 - Dry floodproofing measures are not permitted in Coastal High Hazard Areas, Coastal A Zones, High Risk Flood Hazard Areas, where flood velocities exceed 5 ft/sec, and where conformance with certain human intervention limits cannot be achieved.
 - At least one exit door or emergency escape/rescue opening must be provided above the elevation specified for dry floodproofing.
 - If dry floodproofing measures specified require human intervention to activate or implement, there must be a minimum warning time of 12 hours unless a community warning system provides a warning time sufficient to accomplish certain activities. If removable shields are approved as part of design, flood emergency plans must address specified elements and actions and must be posted in at least two conspicuous locations.

Flood Damage-Resistant Materials

- Flood damage-resistant materials must be used below specified elevations (see table on page 4).
- Metal connectors and fasteners exposed to salt water, salt spray or other corrosive agents must be stainless steel or equivalent corrosion resistant material, or hot-dipped galvanized after fabrication.
- Where preservative treated wood is required, treatment must be in accordance with AWP requirements.

Attendant Utilities and Equipment

- Attendant utilities and equipment must be at or above specified elevations (see table on page 4), or must be specifically designed, constructed, and installed to prevent floodwaters from entering or accumulating within components.
- Fuel supply lines must be equipped with float operated automatic shut-off valves.
- Where required to meet life safety provisions of the code, certain exterior electrical components may be installed below the design flood elevation, provided they are installed on a non-breakaway structural element on the landward or downstream side of structures.
- Tanks that are below the design flood elevation and that are attached to or beneath buildings must be installed and anchored to resist at least 1.5 times the potential buoyant and other flood forces assumed to act on empty tanks.
- Elevator cabs that descend below the design flood elevation must be equipped with controls that prevent the cab from descending into floodwaters. Elevator shafts must be designed to resist flood loads, but are not required to have flood openings or breakaway walls.

Siting Considerations

- New buildings must not be built (1) seaward of the reach of mean high tide, or (2) in areas subject to flash flooding (floodwaters rise to 3 feet or more above banks in less than 2 hours). Unless protected, new buildings must not be built (1) in erosion-prone areas (determined by analysis); or (2) in mudslide areas (determined by analysis); or (3) in certain portions of alluvial fan areas; or (4) in high velocity flow areas (faster than 10 ft/sec); or (5) in ice jam and debris areas.
- Buildings in proximity to flood protective works (dams, levees, floodwalls, diversions, channels, flood control structures) must not have adverse effects on, or conflict with, maintenance and repairs of those protective works.

Prepared by FEMA Building Science Branch. Content from ASCE 24-14 used with permission from ASCE. Purchase ASCE 24 at www.asce.org.

See next page for description of Flood Design Classes →

		Flood Design Class 1	Flood Design Class 2	Flood Design Class 3	Flood Design Class 4
Minimum Elevation* of Lowest Floor (Zone A: ASCE 24-14 Table 2-1)	Zone A not identified as Coastal A Zone	DFE	BFE +1 ft or DFE, whichever is higher	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, or 500-year flood elevation, whichever is higher
Minimum Elevation of Bottom of Lowest Horizontal Structural Member (Zone V: ASCE 24-14 Table 4-1)	Coastal High Hazard Areas (Zone V) and Coastal A Zone	DFE	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, whichever is higher	BFE +2 ft or DFE, or 500-year flood elevation, whichever is higher
Minimum Elevation Below Which Flood-Damage-Resistant Materials Shall be Used (Table ASCE 24-14 5-1)	Zone A not identified as Coastal A Zone	DFE	BFE +1 ft or DFE, whichever is higher	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, or 500-year flood elevation, whichever is higher
	Coastal High Hazard Areas (Zone V) and Coastal A Zone	DFE	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, whichever is higher	BFE +2 ft or DFE, or 500-year flood elevation, whichever is higher
Minimum Elevation** of Utilities and Equipment (ASCE 24-14 Table 7-1)	Zone A not identified as Coastal A Zone	DFE	BFE +1 ft or DFE, whichever is higher	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, or 500-year flood elevation, whichever is higher
	Coastal High Hazard Areas (Zone V) and Coastal A Zone	DFE	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, whichever is higher	BFE +2 ft or DFE, or 500-year flood elevation, whichever is higher
Minimum Elevation of Dry Floodproofing of non-residential structures and non-residential portions of mixed-use buildings (ASCE 24-14 Table 6-1)	Zone A not identified as Coastal A Zone	BFE +1 ft or DFE, whichever is higher	BFE +1 ft or DFE, whichever is higher	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, or 500-year flood elevation, whichever is higher
	Coastal High Hazard Areas (Zone V) and Coastal A Zone	Not permitted	Not permitted	Not permitted	Not permitted
Minimum Elevation of Wet Floodproofing*** (ASCE 24-14 Table 6-1)	Zone A not identified as Coastal A Zone; Coastal A Zone; Coastal High Hazard Areas (Zone V)	BFE +1 ft or DFE, whichever is higher	BFE +1 ft or DFE, whichever is higher	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, or 500-year flood elevation, whichever is higher
* Flood Design Class 1 structures shall be allowed below the minimum elevation if the structure meets the wet floodproofing requirements of ASCE 24-14 Section 6.3. ** Unless otherwise permitted by ASCE 24-14 Chapter 7 *** Only if permitted by ASCE 24-14 Section 6.3.1					

ASCE 24-14 Table 1-1 Flood Design Class of Buildings and Structures	
Use or Occupancy of Buildings and Structures	Flood Design Class
Buildings and structures that normally are unoccupied and pose minimal risk to the public or minimal disruption to the community should they be damaged or fail due to flooding. Flood Design Class 1 includes (1) temporary structures that are in place for less than 180 days, (2) accessory storage buildings and minor storage facilities (does not include commercial storage facilities), (3) small structures used for parking of vehicles, and (4) certain agricultural structures. [Note (a)]	1
Buildings and structures that pose a moderate risk to the public or moderate disruption to the community should they be damaged or fail due to flooding, except those listed as Flood Design Classes 1, 3, and 4. Flood Design Class 2 includes the vast majority of buildings and structures that are not specifically assigned another Flood Design Class, including most residential, commercial, and industrial buildings.	2
Buildings and structures that pose a high risk to the public or significant disruption to the community should they be damaged, be unable to perform their intended functions after flooding, or fail due to flooding. Flood Design Class 3 includes (1) buildings and structures in which a large number of persons may assemble in one place, such as theaters, lecture halls, concert halls, and religious institutions with large areas used for worship; (2) museums; (3) community centers and other recreational facilities; (4) athletic facilities with seating for spectators; (5) elementary schools, secondary schools, and buildings with college or adult education classrooms; (6) jails, correctional facilities, and detention facilities; (7) healthcare facilities not having surgery or emergency treatment capabilities; (8) care facilities where residents have limited mobility or ability, including nursing homes but not including care facilities for five or fewer persons; (9) preschool and child care facilities not located in one- and two-family dwellings; (10) buildings and structures associated with power generating stations, water and sewage treatment plants, telecommunication facilities, and other utilities which, if their operations were interrupted by a flood, would cause significant disruption in day-to-day life or significant economic losses in a community; and (11) buildings and other structures not included in Flood Design Class 4 (including but not limited to facilities that manufacture, process, handle, store, use, or dispose of such substances as hazardous fuels, hazardous chemicals, hazardous waste, or explosives) containing toxic or explosive substances where the quantity of the material exceeds a threshold quantity established by the authority having jurisdiction and is sufficient to pose a threat to the public if released. [Note (b)]	3
Buildings and structures that contain essential facilities and services necessary for emergency response and recovery, or that pose a substantial risk to the community at large in the event of failure, disruption of function, or damage by flooding. Flood Design Class 4 includes (1) hospitals and health care facilities having surgery or emergency treatment facilities; (2) fire, rescue, ambulance, and police stations and emergency vehicle garages; (3) designated emergency shelters; (4) designated emergency preparedness, communication, and operation centers and other facilities required for emergency response; (5) power generating stations and other public utility facilities required in emergencies; (6) critical aviation facilities such as control towers, air traffic control centers, and hangars for aircraft used in emergency response; (7) ancillary structures such as communication towers, electrical substations, fuel or water storage tanks, or other structures necessary to allow continued functioning of a Flood Design Class 4 facility during and after an emergency; and (8) buildings and other structures (including, but not limited to, facilities that manufacture, process, handle, store, use, or dispose of such substances as hazardous fuels, hazardous chemicals, or hazardous waste) containing sufficient quantities of highly toxic substances where the quantity of the material exceeds a threshold quantity established by the authority having jurisdiction and is sufficient to pose a threat to the public if released. [Note (b)]	4
[Note (a)] Certain agricultural structures may be exempt from some of the provisions of this standard; see ASCE 24-14 Section C1.4.3. [Note (b)] Buildings and other structures containing toxic, highly toxic, or explosive substances shall be eligible for assignment to a lower Flood Design Class if it can be demonstrated to the satisfaction of the authority having jurisdiction by a hazard assessment as described in ASCE 7-10 Section 1.5.3 of <i>Minimum Design Loads for Buildings and Other Structures</i> that a release of the substances is commensurate with the risk associated with that Flood Design Class.	

Significant Technical Revisions

ASCE 24-14 lists a number of significant technical revisions from the 2005 edition:

1. Defines *Flood Design Class* rather than use Risk/Occupancy Classification assigned under ASCE 7 and requires each building or structure governed by the standard to be assigned to Flood Design Class 1, 2, 3, or 4. Uses the assigned Flood Design Class to apply elevation requirements specified in Chapters 2, 4, 5, 6 and 7. Flood Design Class 4 buildings and facilities are equivalent to Occupancy Category/Risk Category IV buildings, which ASCE 7-10 identifies as essential facilities.
2. Adds definitions for *Mixed Use* and *Residential Portions of Mixed Use* in commentary to clarify limitations on use of dry floodproofing measures.
3. Changes the Coastal A Zone determination requirement from the designer's responsibility to one depending on either: 1) delineation of a Limit of Moderate Wave Action (LiMWA) on a Flood Insurance Rate Map, or 2) designation by the Authority Having Jurisdiction.
4. Separates specifications for flood openings from the installation requirements. Requires the presence of louvers, blades, screens, faceplates, or other covers and devices to be accounted for in determining net open area for non-engineered openings and in determining the performance of engineered openings. Revises coefficient of discharge table for engineered flood openings. Adds commentary regarding selection of coefficient of discharge and for grouping or stacking of flood openings.
5. For Flood Design Class 4 buildings, requires the minimum lowest floor elevation (or floodproofing level of protection) to be the higher of: the Base Flood Elevation plus freeboard specified in Chapters 2, 4 and 6, the Design Flood Elevation, or the 500-year flood elevation. The 500-year flood elevation requirement is new.
6. Clarifies text pertaining to alluvial fan high risk flood hazard areas.
7. In coastal high hazard areas (V Zone) and Coastal A Zones (if delineated):
 - a. Makes explicit that designs must account for local scour and erosion
 - b. Provides for shallow foundations in Coastal A Zones under certain circumstances
 - c. Requires flood openings in breakaway walls
 - d. Eliminates orientation of the lowest horizontal structural member as a factor to determine elevation for lowest floors, equipment, and flood damage-resistant materials
 - e. Requires exterior doors at the top of stairways that are located inside enclosed areas with breakaway walls
 - f. Consolidates requirements for all nonstructural concrete slabs
 - g. Allows substantial improvement of existing buildings seaward of the reach of mean high tide in V zones (makes ASCE 24 consistent with NFIP) and Coastal A Zones.
8. Updates flood damage-resistant material requirements.
9. Clarifies emergency escape and rescue opening requirements for dry floodproofed buildings.
10. Clarifies requirements for garages, carports, and accessory storage structures. Adds new section for multistory parking structures.
11. Consolidates requirements for tanks and more clearly distinguishes between requirements based on flood hazard area.

Property Address and Owner:

Hearing Date: October 1, 2025

Property Owner: Royal Pelican Townhouse Condo Assn
Property Address: 4501-4509 Bay Beach
Violation: Non-Compliant Structure

Subject:

Code Section:

Reference Number:

Strap Number:

Officer:

T. Yozzo

Narrative:

Attachments:

1. 20241093_Hearing Exhibit A_Notice of Hearing and Affidavit of Posting (1)
2. 20241093_Hearing Exhibit B_FEMA and Related Ordinances
3. 20241093_Hearing Exhibit C_Notice of Violation (1)
4. 20241093_Hearing Exhibit D_Status of Compliance
5. 20241093_Hearing Exhibit E_Violated Regulations

Town Recommendations:

Town Approvals:

Thomas Yozzo, Emergency Services Director

Date: September 24, 2025



Traci Kohler, Deputy Town Manager

Date: September 24, 2025

nancy stuparich, Town Attorney

Date: September 24, 2025

Lizzette Roman, Town Clerk Administrative Coordinator

Date: September 24, 2025

Amy Baker, Town Clerk

Date: September 24, 2025

HEARING

EXHIBIT

A

- Notice of Hearing and Affidavit of Posting



9/5/2025

TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

ROYAL PELICAN TOWNHOUSE CONDO
13831 VECTOR AVE
FORT MYERS, FL 33907

Respondent.

Case Number:	20241093
Certified Mail:	9589071052703142135019
Regular Mail:	Standard 1 st Class

Site Address: 4501-4509 BAY BEACH Fort Myers Beach, FL 33931
Parcel Strap No.: 34-47-24-W1-05600.00CE

NOTICE OF CODE ENFORCEMENT HEARING

YOU ARE HEREBY NOTIFIED that, pursuant to Chapter 162, Florida Statutes and Chapter 2, Article V of the Town of Fort Myers Beach Land Development Code, the undersigned Code Enforcement Officer has documented that (an) uncorrected violation(s) of one or more codes of the Town of Fort Myers Beach, as described in the **NOTICE OF VIOLATION**, previously provided to you (another copy of which is enclosed herewith), exists on the above described property. A hearing before the Town's Code Enforcement Special Magistrate concerning the violation(s) has, therefore, been scheduled for **WEDNESDAY 10-01-2025 at 9:00 A.M.** at Fort Myers Beach Town Hall, located at 6231 Estero Blvd., Fort Myers Beach, Florida 33931.

A copy of the evidentiary case file and all materials provided by the Town Code Enforcement Unit to the Special Magistrate in relation to this hearing can be viewed and accessed in advance of the hearing at the link below:

<http://www.fortmyersbeachfl.gov/209/Meetings-Agendas>

NO ADDITIONAL NOTICE OF THE HEARING WILL BE PROVIDED TO YOU. If you fail to attend this hearing, the Code Enforcement Special Magistrate will consider the case, even though you are not

FORT MYERS BEACH, ESTERO ISLAND

P. 239-765-0202 | F. 239-765-0909 | 2731 Oak Street, Fort Myers Beach, FL 33931

(Last 06/2024)



present, and may assess fines or take other actions that will affect your rights. If you believe you have come into compliance, it is your responsibility to contact the Code Enforcement Division so that an inspection can be carried out to determine compliance.

Please be aware that under Florida Statutes Chapter 162 and Town of Fort Myers Beach Land Development Code Section 2-427(b) a fine of up to \$250.00 per day for the first violation or \$500.00 per day for a repeat violation may be imposed for each day the violation continues or is repeated. If the Special Magistrate finds that a violation is irreparable or irreversible in nature, a fine of up to \$5,000.00 per violation may be imposed. The Special Magistrate may also assess the costs of prosecution of the case against you and you may be required to pay those fees, even if the violation(s) has been corrected or abated prior to the hearing.

Thomas Yozzo

Code Enforcement Officer
Town of Fort Myers Beach

NOTE: IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. PLEASE NOTIFY THE TOWN CLERK FOR THE TOWN OF FORT MYERS BEACH, 6231 ESTERO BLVD. FORT MYERS BEACH, FL 33931; TELEPHONE NUMBER (239) 765-0202, AT LEAST 72 BUSINESS HOURS BEFORE THE HEARING DATE.

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE SPECIAL MAGISTRATE WITH RESPECT TO ANY MATTER CONSIDERED AT HEARING, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND, FOR SUCH PURPOSE MAY NEED TO ENSURE AT THEIR OWN EXPENSE FOR THE TAKING AND PREPARATION OF A VERBATIM RECORD OF ALL TESTIMONY AND EVIDENCE BY A COURT REPORTER UPON WHICH THE APPEAL IS TO BE BASED

FORT MYERS BEACH, ESTERO ISLAND

P. 239-765-0202 | F. 239-765-0909 | 2731 Oak Street, Fort Myers Beach, FL 33931



TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

FMB Case Number:	20241093
Certified Mail:	9589071052703142135019
Regular Mail:	Standard 1st class
Strap No:	034724W10560000CE

ROYAL PELICAN TOWNHOUSE CONDO ASSN
13831 VECTOR AVE
FORT MYERS, FL 33907

Site Address: 4501-4509 Bay Beach Ln
Fort Myers Beach, FL 33931

Respondent.

AFFIDAVIT OF NOTICE AND POSTING OF HEARING

STATE OF FLORIDA

COUNTY OF LEE

BEFORE ME, the undersigned authority, personally appeared Thomas Yozzo, who is a Code Compliance Officer for the Town of Fort Myers Beach, who was sworn and under oath, deposes and says the following regarding Case # 20241093:

1. I Thomas Yozzo personally mailed by certified mail return receipt requested a copy of the Notice of Hearing attached as Exhibit A to the following:

Royal Pelican Townhouse Condo Assn
4501-4509 Bay Beach Ln
Fort Myers Beach, FL 33931
Certified Mail No. 9589071052703142135026

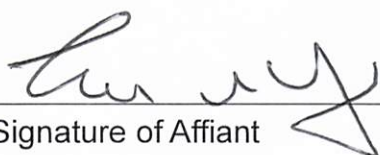


Royal Pelican Townhouse Condo Assn
13831 Vector Ave
Fort Myers, FL 33907
Certified Mail No. 9589071052703142135002
(LLC Listed Registered Agent in Sunbiz)

Ownership was further confirmed with a copy of the records from the Tax Collector's website and Sunbiz a copy are in Exhibit _A_.

2. The return receipt of the certified mailing was not received and therefore additional notice was provided as required by Section 2-429(b)(1) and (b)(2) and stated below.
3. A copy of the Notice of Hearing was posted on 9/5/2025, which is 27 days before the Special Magistrate Hearing scheduled on 10/1/2025 at Fort Myers Beach Town Hall, 6231 Estero Boulevard, Fort Myers Beach, Florida 33931 and at 4501-4509 Bay Beach Ln Fort Myers, FL 33931. I took photographs of the Notices that were posted in these two locations. The photographs are true and accurate and have not been altered. A copy of the photographs are attached as Exhibit.

Under penalties of perjury, I declare that I have read the foregoing affidavit and that the facts stated in it are true and to the best of my knowledge and belief comply with Section 2-429 of the Town Land Development Code and Section 162.12, Florida Statutes.

x 
Signature of Affiant

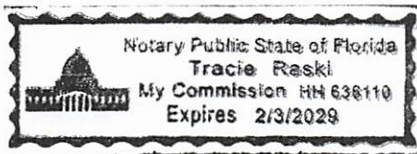


FMBgov.com

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

**STATE OF FLORIDA
COUNTY OF LEE**

The foregoing instrument was sworn to, subscribed and acknowledged before me by means of either ☒ personal presence or ☐ online notarization this 5 day of September, 2025, by T. Yozzo. Who is ☒ personally known to me or ☐ has produced _____ as identification.



[Notary Seal]

Tracie Raski
Notary Public, State of Florida .
Print Name: Tracie Raski
My Commission Expires: 2/3/2029

9589 0710 5270 3142 1350 19

**U.S. Postal Service™
CERTIFIED MAIL® RECEIPT**
Domestic Mail Only

For delivery information, visit our website at www.usps.com.

OFFICIAL USE Town of Fort Myers Beach

Certified Mail Fee \$

SEP 08 2025

Extra Services & Fees (check box, add fee as appropriate)

☐ Return Receipt (hardcopy) \$

☐ Return Receipt (electronic) \$

☐ Certified Mail Restricted Delivery \$

☐ Adult Signature Required \$

☐ Adult Signature Restricted Delivery \$

Sent by: MC Postmark Here

Postage \$

Total Postage and Fees \$

Case # 20241093
4501-4509 Bay Beach Ln

ROYAL PELICAN TOWNHOUSE CONDO ASSN
13831 VECTOR AVE
FORT MYERS, FL 33907

PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions

9589 0710 5270 3142 1350 26

**U.S. Postal Service™
CERTIFIED MAIL® RECEIPT**
Domestic Mail Only

For delivery information, visit our website at www.usps.com.

OFFICIAL USE Town of Fort Myers Beach

Certified Mail Fee \$

SEP 08 2025

Extra Services & Fees (check box, add fee as appropriate)

☐ Return Receipt (hardcopy) \$

☐ Return Receipt (electronic) \$

☐ Certified Mail Restricted Delivery \$

☐ Adult Signature Required \$

☐ Adult Signature Restricted Delivery \$

Sent by: MC Postmark Here

Postage \$

Total Postage and Fees \$

Case # 20241093
4501-4509 Bay Beach Ln

ROYAL PELICAN TOWNHOUSE CONDO ASSN
4501-4509 BAY BEACH LN
FORT MYERS, FL 33907

PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions



Don Allen, Mayor | Jim Atterholt, Vice Mayor | John R. King, Council Member | Scott Safford, Council Member | Karen Woodson, Council Member

FMBgov.com

9/5/2025

TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

ROYAL PELICAN TOWNHOUSE CONDO
13831 VECTOR AVE
FORT MYERS, FL 33907

Respondent.

Site Address: 4501-4509 BAY BEACH Fort Myers Beach, FL 33931
Parcel Strap No.: 34-47-24-W1-05600.00CE

NOTICE OF CODE ENFORCEMENT HEARING

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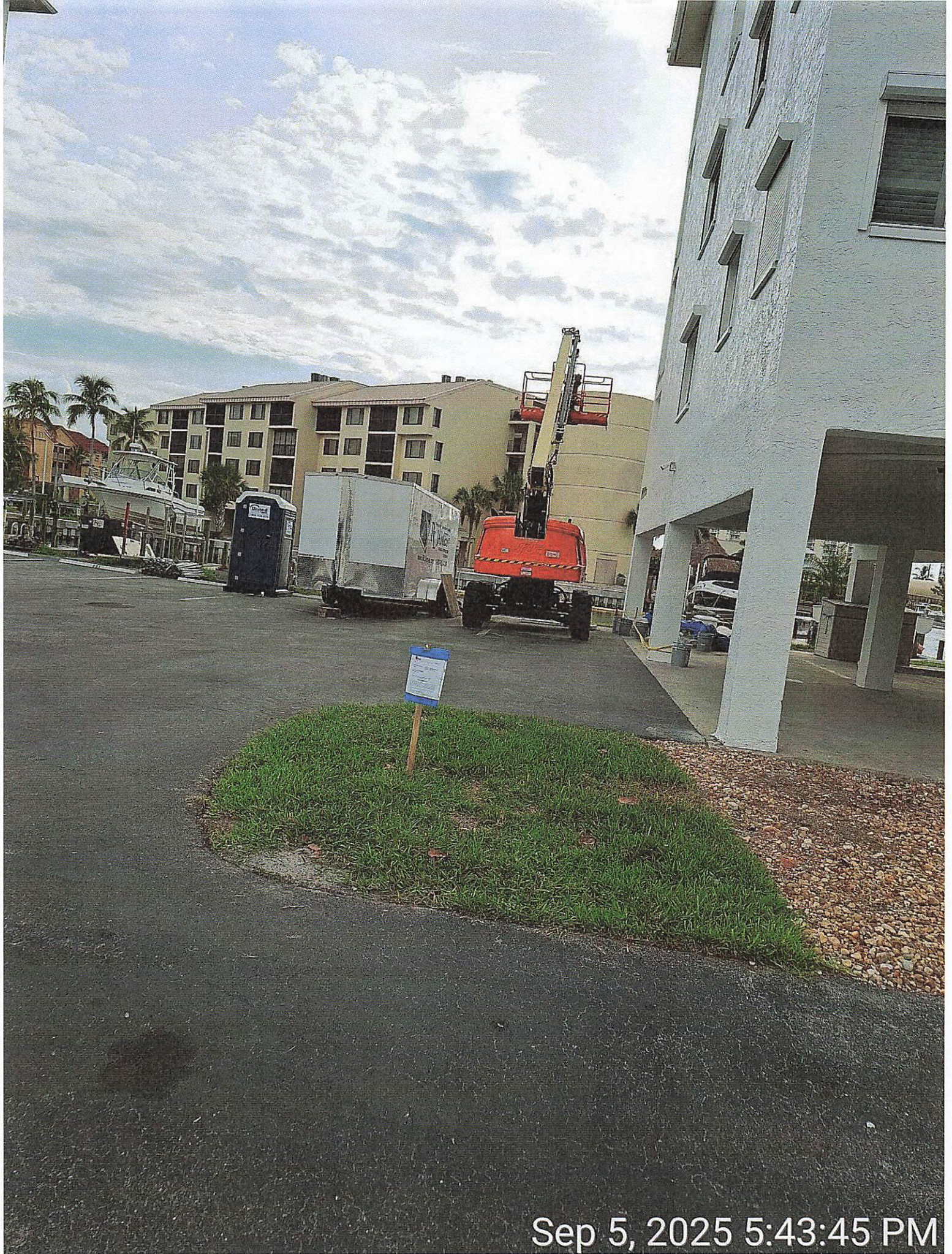
A copy of the evidentiary case file and all materials provided by the Town Code Enforcement Unit to the Special Magistrate in relation to this hearing can be viewed and accessed in advance of the hearing at the link below:

<http://www.fortmyersbeachfl.gov/209/Meetings-Agendas>

NO ADDITIONAL NOTICE OF THE HEARING WILL BE PROVIDED TO YOU, if you fail to attend this hearing. The Code Enforcement Special Magistrate will consider the case, even though you are not FORT MYERS BEACH, ESTERO ISLAND

Staples

Sep 5, 2025 5:43:40 PM



Sep 5, 2025 5:43:45 PM

violation prior to the time set for the hearing.

You will be provided with a Notice of Hearing specifying the date, time and location of the one is scheduled. Please be aware that under Florida Statutes, Chapter 162 and T



Dan Allers, Mayor | Jim Atterholt, Vice Mayor | John R. King, Council Member | Scott Safford, Council Member | Kerri Voo

9/5/2025

TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

ROYAL PELICAN TOWNHOUSE CONDO
13831 VECTOR AVE
FORT MYERS, FL 33907

Respondent.

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FORT MYERS BEACH, ESTERO ISLAND

P. 239-765-0202 | F. 239-765-0909 | 2731 Oak Street, Fort Myers Beach, FL 33931

(Last 06/2024)

Town of Fort Myers Beach
Sep 12, 2025 12:50:10 PM

Property Data

STRAP: 03-47-24-W1-05600.00CE Folio ID: 10232881

Hurricanes Helene/Milton Tax Roll Value Letter Hurricane Ian Tax Roll Value Letter

Generated on 11/13/2024 12:25 PM

Owner Of Record

[Change Mailing Address]

ROYAL PELICAN TOWNHOUSE
CONDO ASSN
c/o ALLIANT PROPERTY MANAGEMENT
13831 VECTOR AVE
FORT MYERS FL 33907

Site Address

Site Address maintained by E911 Program Addressing

4501-4509 BAY BEACH LN
FORT MYERS BEACH FL 33931

SEE ALTERNATE ADDRESS INFORMATION SECTION BELOW

Property Description

Do not use for legal documents!

ROYAL PELICAN TOWNHOUSE CONDO OR 1861 PG 4140 COMMON
ELEMENTS

[View Recorded Plat at LeeClerk.org](#) - Use this link to view recorded plat information
on the Lee County Clerk of Courts website.

Attributes and Location Details

Total Bedrooms / Fixtures 0 / 4
Gross Building Area 360
1st Year Building on Tax Roll 1986
Historic Designation No

Township	Range	Section	Block	Lot
47	24E	03	05600	00CE
Municipality	Latitude	Longitude		
Town of Fort Myers Beach	26.41278	-81.89681		

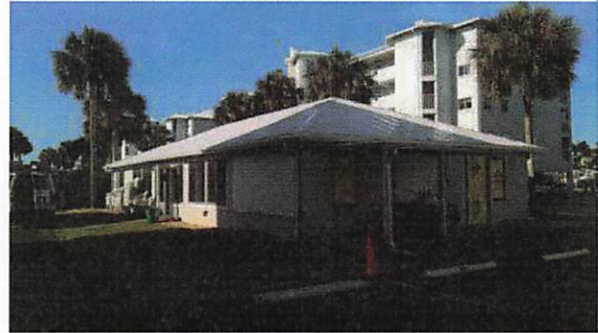
[View Parcel on Google Maps](#)

[Tax Map Viewer] [View Comparables]



[Pictometry Aerial Viewer]

Image of Structure



◀ Photo Date April of 2024 ▶ ☐ View other photos

Last Inspection Date: 04/30/2024

Property Values / Exemptions / TRIM Notices

Generated on 11/13/2024 12:25 PM

No existing exemptions found for this property.

TRIM Notices	Tax Year	Just	Land	Market Assessed	Capped Assessed	Exemptions	Classified Use	Taxable
/ Additional Info	2024 (Final Value)	0	0	0	0	0	0	0
/ Additional Info	2023 (Final Value)	0	0	0	0	0	0	0
/ Additional Info	2022 (Final Value)	0	0	0	0	0	0	0
/ Additional Info	2021 (Final Value)	0	0	0	0	0	0	0
/ Additional Info	2020 (Final Value)	0	0	0	0	0	0	0
/ Additional Info	2019 (Final Value)	0	0	0	0	0	0	0
/ Additional Info	2018 (Final Value)	0	0	0	0	0	0	0
/ Additional Info	2017 (Final Value)	0	0	0	0	0	0	0
	2016 (Final Value)	0	0	0	0	0	0	0
	2015 (Final Value)	0	0	0	0	0	0	0
	2014 (Final Value)	0	0	0	0	0	0	0
	2013 (Final Value)	0	0	0	0	0	0	0
	2012 (Final Value)	0	0	0	0	0	0	0
	2011 (Final Value)	0	0	0	0	0	0	0

	2010 (Final Value)	0	0	0	0	0	0	0
	2009 (Final Value)	0	0	0	0	0	0	0
	2008 (Final Value)	0	0	0	0	0	0	0
	2007 (Final Value)	0	0	0	0	0	0	0
	2006 (Final Value)	0	0	0	0	0	0	0
	2005 (Final Value)	0	0	0	0	0	0	0
	2004 (Final Value)	0	0	0	0	0	0	0
	2003 (Final Value)	0	0	0	0	0	0	0
	2002 (Final Value)	0	0	0	0	0	0	0
	2001 (Final Value)	0	0	0	0	0	0	0
	2000 (Final Value)	0	0	0	0	0	0	0
	1999 (Final Value)	0	0	0	0	0	0	0
	1998 (Final Value)	0	0	0	0	0	0	0
	1997 (Final Value)	0	0	0	0	0	0	0
	1996 (Final Value)	0	0	0	0	0	0	0
	1995 (Final Value)	0	0	0	0	0	0	0

The **Just** value is the total parcel assessment (less any considerations for the cost of sale). This is the closest value to *Fair Market Value* we produce and is dated as of January 1st of the tax year in question ([F.A.C. 12D-1.002](#)).

The **Land** value is the portion of the total parcel assessment attributed to the land.

The **Market Assessed** value is the total parcel assessment (less any considerations for the cost of sale) based upon the assessment standard. Most parcels are assessed based either upon the *Highest and Best Use* standard or the *Present Use* standard ([F.S. 193.011](#)). For *Agriculturally Classified* parcels (or parts thereof), only agricultural uses are considered in the assessment ([F.S. 193.461 \(6\) \(a\)](#)). The difference between the *Highest and Best Use/Present Use* and the *Agricultural Use* is often referred to as the *Agricultural Exemption*.
(i.e. Market Assessed = Just - Agricultural Exemption)

The **Capped Assessed** value is the *Market Assessment* after any *Save Our Homes* or *10% Assessment Limitation* cap is applied. This assessment cap is applied to all properties and limits year-to-year assessment increases to either the *Consumer Price Index* or 3%, whichever is lower for Homestead properties OR 10% for non-Homestead properties.

The **Exemptions** value is the total amount of all exemptions on the parcel.

The **Taxable** value is the *Capped Assessment* after exemptions (*Homestead, etc.*) are applied to it. This is the value that most taxing authorities use to calculate a parcel's taxes.
(i.e. Taxable = Capped Assessed - Exemptions)

Property Details (Current Working Values)

Generated on 11/13/2024 12:25 PM

Land Features

Description	Year Added	Units
FENCE - ALUM/VINYL - 4 FEET	1986	190
SHUFFLE BOARD COURT	1986	780
FENCE - ALUM/VINYL - 4 FEET	1986	200

Buildings

Building 1 of 1

Building Characteristics

Improvement Type	Model Type	Stories	Living Units
74 - Health/Clubhouse	7 - APT/HOTEL/CLUBS	1.0	1
Bedrooms	Bathrooms	Year Built	Effective Year Built
0	0.0	1986	1986

Building Subareas

Description	Heated / Under Air	Area (Sq Ft)
BAS - BASE	Y	360
FSP - FINISHED SCREEN PORCH	N	1,440

Building Features

Description	Year Added	Units
-------------	------------	-------

POOL - COMMERCIAL	1986	510
PATIO - BRICK AND TILE	1986	1,365
POOL - COMMERCIAL	1986	700
PATIO - BRICK AND TILE	1986	1,520

Building Front Photo



Photo Date: April of 2024

Building Footprint



Property Details (2024 Tax Roll)

Generated on 11/13/2024 12:25 PM

Land Features

Description	Year Added	Units
FENCE - ALUM/VINYL - 4 FEET	1986	190
SHUFFLE BOARD COURT	1986	780
FENCE - ALUM/VINYL - 4 FEET	1986	200

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Building 1 of 1

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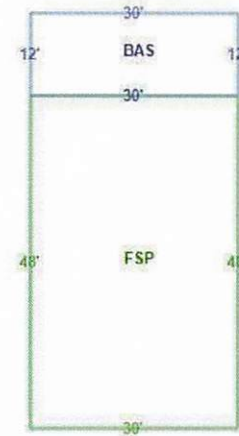
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POOL - COMMERCIAL	1986	700
PATIO - BRICK AND TILE	1986	1,520

Building Front Photo



Photo Date: April of 2024

Building Footprint

**Taxing Authorities**

Generated on 11/13/2024 12:25 PM

TOWN OF FT MYERS BEACH / 032

Name / Code	Category	Mailing Address
LEE CO GENERAL REVENUE / 044	County	LEE COUNTY OFFICE OF MGMT & BUDGET PO BOX 398 FORT MYERS FL 33902-0398
FORT MYERS BEACH FIRE CONTROL DIST / 032	Independent District	FORT MYERS BEACH FIRE CONTROL DIST 100 VOORHIS ST FORT MYERS BEACH FL 33931
FORT MYERS BEACH MOSQUITO CONTROL / 035	Independent District	FORT MYERS BEACH MOSQUITO CONTROL PO BOX 2837 FORT MYERS BEACH FL 33932-2837
FORT MYERS BEACH PUBLIC LIBRARY DIST / 033	Independent District	FORT MYERS BEACH PUBLIC LIBRARY DIST 2755 ESTERO BLVD FORT MYERS BEACH FL 33931
LEE CO HYACINTH CONTROL DIST / 051	Independent District	LEE CO HYACINTH CONTROL DIST 15191 HOMESTEAD RD LEHIGH ACRES FL 33971
WEST COAST INLAND NAVIGATION DIST / 098	Independent District	WEST COAST INLAND NAVIGATION DIST 200 MIAMI AVE E VENICE FL 34285-2408
TOWN OF FORT MYERS BEACH FLORIDA / 118	Municipal	TOWN OF FORT MYERS BEACH 2523 ESTERO BLVD FORT MYERS BEACH FL 33931
PUBLIC SCHOOL - BY LOCAL BOARD / 012	Public Schools	LEE COUNTY SCHOOL BOARD BUDGET DEPARTMENT 2855 COLONIAL BLVD FORT MYERS FL 33966
PUBLIC SCHOOL - BY STATE LAW / 013	Public Schools	LEE COUNTY SCHOOL BOARD BUDGET DEPARTMENT 2855 COLONIAL BLVD FORT MYERS FL 33966
GREEN CORRIDOR PACE / 363	Special District	
SFWMD-DISTRICT-WIDE / 110	Water District	SFWMD 3301 GUN CLUB RD WEST PALM BEACH FL 33406
SFWMD-EVERGLADES CONSTRUCTION PROJECT / 084	Water District	SFWMD 3301 GUN CLUB RD WEST PALM BEACH FL 33406
SFWMD-OKEECHOBEE BASIN / 308	Water District	SFWMD 3301 GUN CLUB RD WEST PALM BEACH FL 33406

Sales / Transactions

Generated on 11/13/2024 12:25 PM

Sale Price	Date	Clerk File Number	Type	Notes	Vacant/ Improved
0.00	05/18/2017	2017000121086	11	There are 1 additional parcel(s) with this document (may have been split after the transaction date)... 03-47-24-W1-05600.000A	1

[View Recorded Plat at LeeClerk.org](#)

Use the above link to view recorded plat information on the Lee County Clerk of Courts website.

Help safeguard your home against property fraud. Sign up for the Lee Clerk's free [Property Fraud Alert](#).

Building / Construction Permit Data

Generated on 11/13/2024 12:25 PM

Permit Number	Permit Type	Date
241135	Fence	04/26/2024
235462	Building Addition	11/07/2023
234105	Building Remodel / Repair	08/14/2023
234114	Building Remodel / Repair	08/09/2023
232934	Building Remodel / Repair	08/03/2023
234108	Building Remodel / Repair	07/17/2023
234111	Building Remodel / Repair	07/14/2023
234112	Building Remodel / Repair	07/14/2023
234119	Building Remodel / Repair	07/03/2023
234122	Building Remodel / Repair	07/03/2023
234117	Building Remodel / Repair	06/26/2023
232594	Electric	03/22/2023
230092	Mobile Home	01/05/2023
224477	Mobile Home	12/01/2022
224488	Mobile Home	12/01/2022
210486	Plumbing	03/29/2021
FIR18-0033	Fire	08/10/2018
FIR18-0032	Fire	06/12/2018
ELE18-0050	Electric	02/21/2018
DSH17-0080	Boathouse, Dock & Shoreline	11/20/2017
DSH17-0071	Boathouse, Dock & Shoreline	10/25/2017
FIR17-0044	Fire	10/12/2017
FIR17-0019	Fire	10/06/2017
FIR17-0018	Fire	07/17/2017
MEC17-0074	AC New / Change out	03/14/2017
MEC17-0033	AC New / Change out	01/30/2017
FIR16-0028	Fire	07/18/2016
FIR16-0029	Fire	07/18/2016
FIR16-0032	Fire	07/18/2016
FIR16-0033	Fire	07/18/2016
FIR16-0034	Fire	07/18/2016
FIR16-0035	Fire	07/18/2016
FIR16-0036	Fire	07/18/2016
FIR16-0037	Fire	07/18/2016
FIR16-0038	Fire	07/18/2016

ELE15-0390	Electric	12/30/2015
FIR15-0051	Fire	08/21/2015
FIR15-0044	Fire	07/13/2015
DSH14-0102	Boathouse, Dock & Shoreline	12/29/2014
ROF14-0029	Roof	04/15/2014
ROF14-0030	Roof	04/15/2014
ROF14-0031	Roof	04/15/2014
ROF14-0032	Roof	04/15/2014
ROF14-0033	Roof	04/15/2014
ROF14-0034	Roof	04/15/2014
ROF14-0035	Roof	04/15/2014
ROF14-0036	Roof	04/15/2014
ROF14-0037	Roof	04/15/2014
COM12-0168	Building Remodel / Repair	07/31/2012
COM12-0169	Building Remodel / Repair	07/31/2012
COM12-0170	Building Remodel / Repair	07/31/2012
COM12-0171	Building Remodel / Repair	07/31/2012
COM12-0043	Building Remodel / Repair	04/20/2012
COM11-0030	Building Remodel / Repair	04/26/2011
COM11-0031	Building Remodel / Repair	04/26/2011
COM11-0032	Building Remodel / Repair	04/26/2011
COM10-0159	Building Remodel / Repair	01/12/2011
COM10-0024	Building Remodel / Repair	03/29/2010
COM08-0012	Commercial	07/17/2008
COM2005-03448	Building New Construction	08/30/2007
COM2006-03529	Building Remodel / Repair	11/21/2006

IMPORTANT: THIS MAY NOT BE A COMPREHENSIVE OR TIMELY LISTING OF PERMITS ISSUED FOR THIS PROPERTY.

Note: The Lee County Property Appraiser's Office does not issue or maintain any permit information. The Building / Construction permit data displayed here represents only those records this Office may find necessary to conduct Property Appraiser business. Use of this information is with the understanding that in no way is this to be considered a comprehensive listing of permits for this or any other parcel.

The Date field represents the date the property appraiser received information regarding permit activity; it may or not represent the actual date of permit issuance or completion.

Full, accurate, active and valid permit information for parcels can only be obtained from the [appropriate permit issuing agency](#).

Parcel Numbering History

Generated on 11/13/2024 12:25 PM

Prior STRAP	Prior Folio ID	Renumber Reason	Renumber Date
03-47-24-56-00000.00CE	N/A	Reserved for Renumber ONLY	01/12/1995

Solid Waste (Garbage) Roll Data

Generated on 11/13/2024 12:25 PM

Solid Waste District	Roll Type	Category	Unit / Area	Tax Amount
001 - Service Area 1	-		0	0.00

Flood and Storm Information

Generated on 11/13/2024 12:25 PM

Community	Flood Insurance	Panel	Version	Date	Evacuation Zone
071C	Find my flood zone	0567	G	11/17/2022	A

Alternate Address Information

Generated on 11/13/2024 12:25 PM

Alternate Address
4501 BAY BEACH LN 4505 BAY BEACH LN 4507 BAY BEACH LN 4509 BAY BEACH LN

Generated on 11/13/2024 12:25 PM



Lee County Tax Collector

Noelle Branning

Account Number:
03-47-24-W1-05600.00CE
Alternate Key:
2100152943
Millage Code:
032

Site Address/Legal Description:
4501-4509 BAY BEACH LN
ROYAL PELICAN TOWNHOUSE CONDO OR 1861
PG 4140 COMMON ELEMENTS



SCAN
THIS CODE
to pay online
or visit
LeeTC.com/pay-online

Exemptions/Values

Market Value	0
Assessed Value	0
Taxable Value	0

★ See message below.

ROYAL PELICAN TOWNHOUSE CONDO c/o SEACREST SOUTHWEST
PROPERTY
1044 CASTELLO DR #206
NAPLES, FL 34103

Ad Valorem Taxes Levying Authority

	Telephone	Mill Rate	Assessed	Exemption	Taxable	Amount
LEE COUNTY GENERAL REVENUE	239-533-2221	3.7623	0	0	0	0.00
PUBLIC SCHOOL - BY LOCAL BOARD	239-337-8215	2.2480	0	0	0	0.00
PUBLIC SCHOOL - BY STATE LAW	239-337-8215	3.0380	0	0	0	0.00
TOWN OF FORT MYERS BEACH	239-765-0202	0.9900	0	0	0	0.00
SFL WATER MGMT-DISTRICT LEVY	561-686-8800	0.0948	0	0	0	0.00
SFL WATER MGMT-EVERGLADE CONST	561-686-8800	0.0327	0	0	0	0.00
SFL WATER MGMT-OKEECHOBEE LEVY	561-686-8800	0.1026	0	0	0	0.00
FORT MYERS BEACH FIRE CONTROL DISTRICT	239-590-4200	2.8000	0	0	0	0.00
FORT MYERS BEACH MOSQUITO	239-247-1205	0.1123	0	0	0	0.00
FORT MYERS BEACH LIBRARY	239-463-9691	0.1612	0	0	0	0.00
LEE COUNTY HYACINTH CONTROL	239-694-2174	0.0200	0	0	0	0.00
WEST COAST INLAND NAVIGATION DISTRICT	941-485-9402	0.0394	0	0	0	0.00

Non-Ad Valorem Assessments Levying Authority

	Telephone	Rate	Basis	Amount
--	-----------	------	-------	--------

2024 Combined Total Ad Valorem and Non-Ad Valorem:

\$0.00

2024 Real Estate Tax Notice

Return with payment

PAY ONLY ONE AMOUNT

If Received By:

- ☐ Sep 30, 2025
- ☐
- ☐
- ☐
- ☐

Amount Due:

\$0.00

Phone/Email Contact: _____

For payment options and instructions, refer to the back of this notice.

Account: 03-47-24-W1-05600.00CE

Site Address: 4501-4509 BAY BEACH LN

Alternate Key: 2100152943

★ If the address below is not correct, visit LeePA.org to update your address.

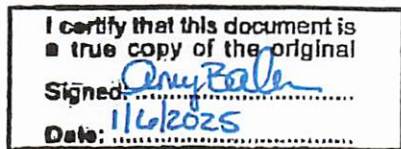
ROYAL PELICAN TOWNHOUSE CONDO c/o SEACREST
SOUTHWEST PROPERTY
1044 CASTELLO DR #206
NAPLES, FL 34103

Make check payable to:
LEE COUNTY TAX COLLECTOR
PO BOX 1609
FORT MYERS, FL 33902-1609



Hearing Exhibit B

FEMA and Related Ordinances



U. S. Department of Homeland Security
Region 4
3005 Chamblee Tucker Road
Atlanta, GA 30341



FEMA

July 19, 2024

CERTIFIED MAIL RETURN RECEIPT REQUESTED

Andy Hyatt
Town Manager, Fort Myers Beach
2525 Estero Blvd
Fort Myers Beach, FL 33931

Re: National Flood Insurance Program Participation

Dear Mr. Hyatt:

I'd like to thank you and your staff for the long hours and hard work during the last two months to help correct the Town of Fort Myers Beach's compliance issues regarding the National Flood Insurance Program (NFIP). Our teams have made great progress in helping ensure Fort Myers Beach and their residents are more resilient and prepared for future storms.

Our team has completed its review of the town's compliance with the minimum floodplain management standards and everything that has been done to correct any deficiencies and violations.

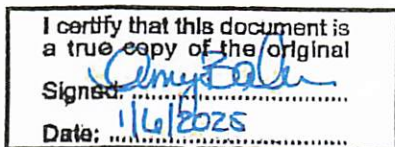
We acknowledge the work invested by your community has resulted in some improvements to meet minimum floodplain management standards. However, as the Town of Fort Myers Beach continues to recover from Hurricane Ian, FEMA finds that outstanding compliance issues remain. FEMA will not retrograde the town's class rating at this time.

Although FEMA will not retrograde the Town of Fort Myers Beach's class rating at this time, if the violations are not corrected or remedied by Nov. 18, FEMA's regulations (Title 44 Code of Federal Regulations 59.24(b) Suspension of Community Eligibility) require us to place the town on probation. This letter starts the official notification process. In addition, the town would no longer be eligible for Community Rating System participation and would be retrograded to Class 10 effective on April 1, 2025.

This letter and its attachments include FEMA's findings and our proposed next steps for the Town of Fort Myers Beach to remedy outstanding deficiencies and violations. These deficiencies and violations are described in the attached documents, specifically refer to the Status Report. To avoid probation in 121 days, the Town of Fort Myers Beach must correct deficiencies and remedy all identified violations to the maximum extent possible by Nov. 18.

You have my commitment of support as you work through these issues with your team.

www.fema.gov



A careful review of the data you provided since April shows that the implementation of the floodplain management program has several deficiencies that remain out of compliance. During the 60-day review period, the Town of Fort Myers Beach submitted additional permitting information for 105 structures in the floodplain.

Here is a summary of some of the items that the Town of Fort Myers Beach needs to remedy:

- Lack of permits for development in the Special Flood Hazard Area.
- Lack of maintaining permit records for development, new construction, or substantial improvements.
- Failure to make substantial improvement (SI) and substantial damage (SD) ("SI/SD") determinations.

FEMA staff reviewed each of the submitted permit packages and learned:

- 31% of the permit packages were complete.
- 20% need additional information.
- 2% needed a Community Assistance Visit follow up.
- 15% were ongoing in a Code Enforcement Case.
- 32% will be followed up on during a Future Compliance Engagement.

FEMA also found:

- 51 out of the 105 permit packages submitted did not include permits for structures that sustained documented damage.
- 76 of the 105 were missing itemized/detailed cost information for repair performed.
- 62 of the 105 had individual permits issued without total repair costs.

To avoid probation, the Town of Fort Myers Beach must complete the following items by close of business on Nov. 18. We encourage regular communication to share updates on your progress.

The town must remedy the following identified deficiencies:

1. Within 60 days of the date of this correspondence, September 16, 2024, develop and submit a plan that includes timelines and actions to address all identified program deficiencies and violations to the maximum extent possible.
2. Assess all floodplain development from Hurricane Ian in the Special Flood Hazard Area, ensuring that permits for all repairs, construction and development were obtained consistent with local floodplain management regulations:
 - a. From FEMA's April 8, 2024 letter:
 - i. Provide a status update for structures deemed Substantially Damaged on the list provided by the Town of Fort Myers Beach in accordance with the April 11, 2024, letter sent to the FEMA Region 4 Administrator.
 - ii. Provide evidence to support compliance action taken for the structures identified as having damage and FEMA identified as Future Compliance Engagement, Community Assistance Visit follow up, and additional information needed.

I certify that this document is
a true copy of the original

Signed: 

Date: 11/6/2025

- b. In addition to the above, provide an assessment of all floodplain development impacts from Hurricane Ian to structures in the Special Flood Hazard Area and provide a plan for remedying any identified violations.
3. Provide documentation that demonstrates your community is leveraging its code enforcement process to address new and existing code cases for all structures not confirmed as compliant. When a violation is confirmed, remedy to maximum extent possible. This includes:
 - a. In Item 2 above, structures identified during the evaluation as a Code Enforcement Case
 - b. Structures identified when assessing the Special Flood Hazard Area for all Hurricane Ian impacts to structures.
4. Put a process in place to ensure substantial damage compliance for future events.

You have my commitment to continue to support you and your team as you take the necessary compliance measures to avoid probation and possible suspension from the National Flood Insurance Program.

If you have any questions or at any time need technical assistance to address these issues, please contact FEMA Region 4 Office, Jacky Bell, Mitigation Division Director, at jacky.bell@fema.dhs.gov or 404-273-4710.

Sincerely,

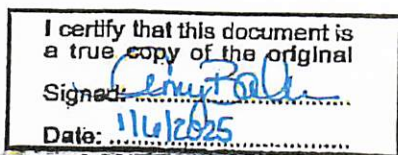


Robert D. Samaan
Regional Administrator

Attachments:

- Community Status Report
- Criteria for Avoiding Probation

cc: Kristin Schumacher, Floodplain Administrator
Jason Hunter, Region Floodplain Management & Insurance Branch Chief
Jillian Kraynak, Florida NFIP State Coordinator
Office of Sen. Marco Rubio
Office of Sen. Rick Scott
Office of Rep. Byron Donalds
Office of Rep. Greg Steube



FEMA

Town of Fort Myers Beach Post-Disaster Compliance Status Update Report

FEMA remains committed to helping communities take appropriate remediation actions to remain in good standing with the National Flood Insurance Program (NFIP) and participate in the Community Rating System (CRS).

The Town of Fort Myers Beach was granted 60 days (June 10, 2024), to submit to FEMA any new information related to the deficiencies and substantive violations detailed in FEMA's April 8, 2024 Findings Report. The April 8, 2024 Findings Report supported an initial decision by FEMA to retrograde the Town of Fort Myers Beach to a CRS class 10 community. In the Findings Report, FEMA also found program deficiencies and violations within the Town of Fort Myers Beach, which will serve as a basis for the current enforcement action and needed remediation.

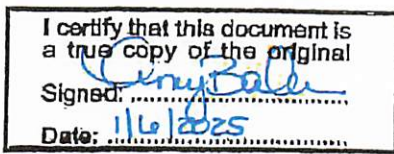
During the 60-day review period, the Town of Fort Myers Beach provided FEMA permit documentation for 105 sites. FEMA reviewed the submitted documentation, for the 105 sites as well as the Town of Fort Myers Beach's Narrative and supporting documentation.

After careful review of Town of Fort Myers Beach's submittal, FEMA finds that program deficiencies and substantive violations remain. Unfortunately, due to the deficiencies, the Town of Fort Myers Beach is being notified that they have until November 18, 2024 to address these deficiencies, or the Town will be placed on probation from the NFIP:

LIST OF PROGRAM DEFICIENCIES

Program Deficiencies are a defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of floodplain management regulations of the standards in 44 CFR 60.3; 60.4; 60.6; and NFIP Community Compliance Program Guidance, P-1022 (July 2016) in section 3.2.

- Failure of the community's "commitment to recognize and duly evaluate flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards in all official actions in the areas having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards and to take such other official action reasonably necessary to carry out the objectives of the program;" 44 CFR 59.22(8) and LDC CH 6, Art IV, Div 1, Sec 6-403(8).
- Failure to require permits for all proposed construction and development in the SFHA. 44 CFR 60.3(b)(1); 44 CFR 60.3(c)(1); 44 CFR 60.3(e)(1); FBC R101.2.1; FBC EB701.3; FBC 105.1; LDC CH 6, Art IV, Div 3, Sec 6-427; and LDC CH 6, Art IV, Div 6, Sec 6-461.
- Failure to maintain permit records for development, new construction, or substantial improvements in the SFHA. 44 CFR 59.22(a)(9)(iii); 44 CFR 60.3(b)(5)(iii); and 44 CFR 60.3(e)(2)(ii).
- Failure to make substantial improvement (SI) and substantial damage (SD) ("SI/SD") determinations and calculations for all proposed construction and development in the SFHA. 44 CFR 60.3(b)(1); 44 CFR 60.3(c)(1); 44 CFR 60.3(e)(1); LDC CH 6, Art IV, Div 3, Sec 6.428(1); and FEMA Substantial Improvement / Substantial Damage Desk Reference, P-758 (May 2010) ("SI/SD Desk Reference") in section 5.2.



- ✓ Failure to maintain SI/SD determination records for all proposed construction and development in the SFHA. 44 CFR 59.22(a)(9)(iii); 44 CFR 60.3(b)(5)(iii); 44 CFR 60.3(e)(2)(ii); and SI/SD Desk Reference in sections 4.2 and 7.7.
- ✓ Failure to keep records of permits, certifications, and variance actions. 44 CFR 59.22(a)(9)(iii).
- ✓ Failure to establish SI/SD procedures for administering and documenting determinations of SI/SD. LDC CH6, Art IV, Div 3, Sec 6.428(1) and FEMA Substantial Improvement / Substantial Damage Desk Reference, P-758 (May 2010) ("SI/SD Desk Reference") in sections 4.1, 4.3, & 7.1.
- ✓ Failure in permitting system, which allowed the use of "temporary" non-compliant structures (including shipping container and trailers/food trucks). LDC CH 6, Art IV, Div, 4, Sec 6.443 (3)&(4), LDC CH 6, Art IV, Div 6, and LDC CH 6, Art IV, Div 6, Sec 6.462, Sec 6.463, and LDC CH 6, Art IV Div 10, Sec 6-501.

1. Program deficiencies

Serious program deficiencies in a community's administrative and enforcement process and procedures are those that have resulted or could result in substantive violations that increase potential flood damages or stages in the community. The following deficiencies represent gaps in the Town's administrative process that restrict the ability to meet the minimum standards for participation.

Permitting of non-compliant structures/shipping containers/

Inconsistent Market Value	Missing Repair Permits (Known Damage (IA/Insurance))	Missing Detailed Cost Info	Low & Inadequate Labor Costs	Permits Issued Without Total Repair Costs	Failed To Capture Complete Scope of Work	After the Fact Permits	After the Fact Notice of Violation
1	51	76	8	62	65	16	25

2. List of properties determined to be substantially damaged:

The Town of Fort Myers Beach has submitted to FEMA a list of properties that Town of Fort Myers Beach deemed substantially damaged since the disaster; there were 356 structures listed. What actions has the Town taken or plan to take to follow-up on those structures? Please provide FEMA with a status of each structure to indicate how substantial damage is being addressed.

3. Non-compliant development

- a. Non-compliant structures (containers) and temporary structures have been placed in the Coastal High Hazard Area (VE zone and coastal A zone). Please provide a plan to remove the structures or bring the non-compliant structures or non-compliant additions into compliance; and confirmation that the town has stopped issuing permits for this type of non-compliant development.

b.

I certify that this document is
a true copy of the original
Signed: *Cheryl Baker*
Date: *11/6/2023*



4. Data Dictionary (revised) – “Status” Column Meanings:

Additional Information Needed – Permit package needs additional information to be considered complete.

CAV Follow-Up – Not a Hurricane Ian issue but found a need for additional information during the next compliance follow-up with the community.

Code Enforcement Case – Community is currently processing as a code enforcement case and FEMA will accept and review case updates, follow-up permit information, and/or enforcement actions occurring prior to June 10, 2024. Actions occurring beyond that time will require future compliance engagement.

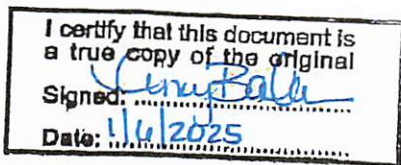
Complete – FEMA needs no further information regarding the specific address.

Future Compliance Engagement – Ian related activity. FEMA will follow-up on this site during the next compliance follow-up with the community.

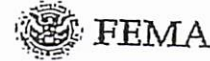
5. Documentation on the Finding Report and Site list:

Attached to this document is a list of structures within the SFHA with violations, including the type of violation, status, and needed documentation.

Final Status (as of June 28, 2024)	Count
Additional Information Needed	21
CAV Follow-Up	2
Code Enforcement Case	16
Complete	32
Future Compliance Engagement	34
Grand Total	105



U.S. Department of Homeland Security
Washington, DC 20528



National Flood Insurance Program Privacy Act Notice

RE: Town of Fort Myers Beach, FL, National Flood Insurance Program Data from the Federal Emergency Management Agency (FEMA)

The Town of Fort Myers Beach, FL is receiving data from the Federal Emergency Management Agency's that is maintained in support of the National Flood Insurance Program (NFIP). Specifically, the Town of Fort Myers Beach, FL is receiving property addresses identified by FEMA as possible violations to the local floodplain management laws and regulations. The community shall use the data to verify, monitor, and resolve the possible violation. As an NFIP participating community, this information will assist the community to ensure compliance with the NFIP and maintain the availability of flood insurance. FEMA will send the information to you securely via email on a password-protected spreadsheet or pdf.

FEMA discloses this to you pursuant to the "routine use" provision of the Privacy Act of 1974, 5 U.S.C. § 552a(b)(3), specifically under Routine Uses G, I, M, N, O, R and T of the System of Records Notice (SORN), DHS/FEMA-003 - National Flood Insurance Program Files 79 FR 28747 (May 19, 2014). The SORN may be electronically viewed at <https://www.gpo.gov/fdsys/pkg/FR-2014-05-19/html/2014-11386.htm>.

The Town of Fort Myers Beach, FL does not have permission to release the provided information to third parties, including third party contractors and will only use the data for the stated purpose. Unauthorized disclosure of FEMA data will result in an immediate denial of access to the FEMA data. Pursuant to the Privacy Act, 5 U.S.C. § 552a(e)(10), please destroy or return said personally identifiable information (PII) to FEMA once you no longer have use for it. PII is information that can be used to identify, by itself, or in combination, individuals by direct or indirect means.

In the event of a privacy incident resulting from this sharing of FEMA PII, Town of Fort Myers Beach, FL shall immediately, but in no event later than twenty-four (24) hours from suspicion, discovery or notification of the suspected or confirmed privacy incident, notify the FEMA Privacy Officer at (202) 212-5100 or FEMA-Privacy@fema.dhs.gov. FEMA will investigate the incident pursuant to DHS standard procedures and will consult the Town of Fort Myers Beach, FL to diagnose, mitigate and manage the privacy incident. The Town of Fort Myers Beach, FL will be responsible for carrying out all necessary measures to remedy the effects of the privacy incident.

By accepting the FEMA data, the Town of Fort Myers Beach, FL agrees that it shall bear all costs, losses and damages to the extent resulting from the City's breach of FEMA data. The Town of Fort Myers Beach, FL further agrees to release, defend, indemnify, and hold FEMA harmless for claims, losses, penalties and damages, and reasonable attorneys' fees and costs to the extent arising out of the Town of Fort Myers Beach, FL or its contractor's, negligence, unauthorized use or disclosure of FEMA PII and/or the Town of Fort Myers Beach, FL, or its contractor's, breach of its obligations under this sharing.

By accepting, receiving, downloading, or otherwise obtaining the routine use information or data discussed in this document, Town of Fort Myers Beach, FL understands, agrees, and accepts the terms of the use of the data as outlined in this document.

I certify that this document is
a true copy of the original

Signed: *Crystal*

Date: 11/6/2025

I certify that this document is
a true copy of the original

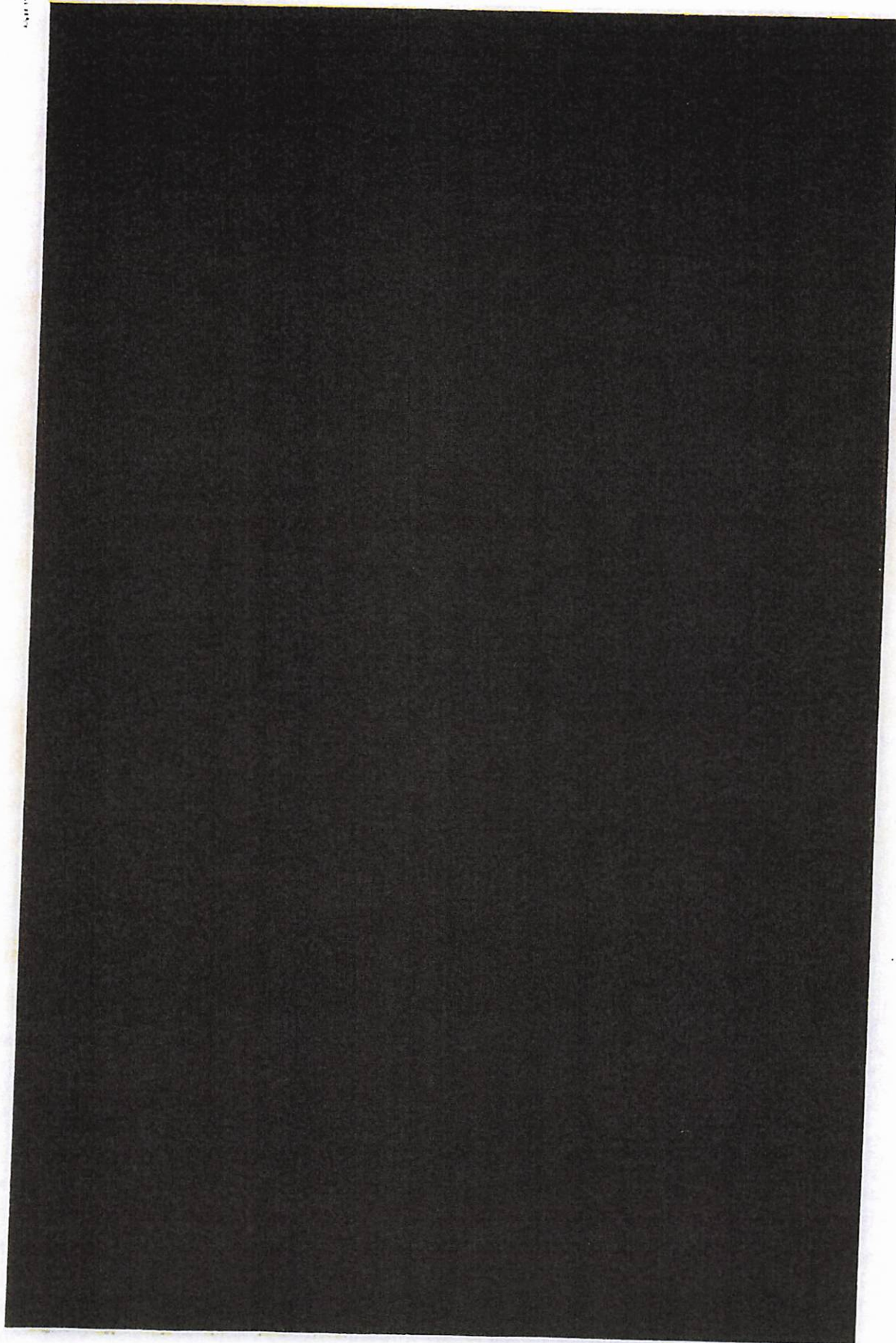
Signed: Cindy Baker

Date: 11/6/2025

I certify that this document is
a true copy of the original

Signed: Cebal

Date: 11/6/2025





I certify that this document is
a true copy of the original
Signed: Ami Ball
Date: 11/6/2024

FMBgov.com

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

VIA CERTIFIED U.S. MAIL AND ELECTRONIC MAIL

November 1, 2024

Federal Emergency Management Agency (FEMA)
U.S Department of Homeland Security
Region 4
3005 Chamblee Tucker Road
Atlanta, Georgia 30341

Attn: Robert D. Samaan
Regional Administrator
FEMA Region IV

RE: Removal of Shipping Containers and Temporary Structures
Town of Fort Myers Beach Post-Disaster Compliance Report

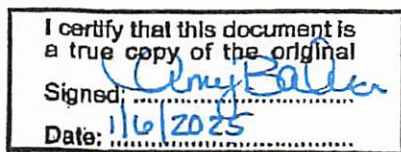
Dear Mr. Samaan,

The Town Council of the Town of Fort Myers Beach requested that we send this letter to you regarding the non-compliant structures (containers and temporary structures) in the Coastal High Hazard Area (VE zone and coastal A zone) referenced on page 2 of the Town of Fort Myers Beach Post-Disaster Compliance Status Update Report, dated July 19, 2024 ("Compliance Report"). The Compliance Report requires that the Town "provide a plan to remove the structures or bring the non-compliant structures or non-compliant additions into compliance" by November 18, 2024. The Town has been and continues to work diligently toward satisfying this requirement.

The most recent storms, Hurricanes Helene and Milton, have facilitated the removal of many of these containers and temporary structures. In fact, the recent removal of shipping containers and temporary structures as the impacts of these hurricanes threatened the Town, provided information regarding the ability to quickly disassemble

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | F. 239-765-0909 | 2731 Oak Street, Fort Myers Beach, FL 33931



and move shipping containers and temporary structures that was previously not available. For this reason, the Town Council gave direction to provide this information to you by letter.

More specifically, the owners of La Ola Surfside Restaurant, who use a 9'x 16' shipping container for a bar, were able to create a video demonstrating how quickly its shipping container could be disassembled and removed from its location on 1035 Estero Boulevard. The following is a link to the video, which has been widely circulated throughout the Fort Myers Beach Community.

https://drive.google.com/file/d/1vCB1leawpTJkXB1x877OIRInmTin2M8k9/view?usp=s_haring_cil&ts=67237f46

La Ola Surfside Restaurant, as well as other businesses that temporarily operate out of shipping containers or other temporary structure, are important to the Fort Myers Beach community's recovery efforts immediately after these storms and since Hurricane Ian by providing a means to fulfill a basic human need: food.

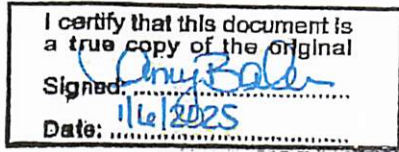
Moreover, as you are aware, the economy of a beach community such as Fort Myers Beach, is highly dependent on tourists, who visit the beach and support local businesses providing food service. In 2023-2024, the Town was awarded over \$1.5 million in tourist development dollars from the Lee County Tourist Development Board. These tourist dollars significantly assisted the Town with its recovery efforts post-Hurricane Ian and the delivery of municipal services to its residents.

In addition to tourists, the Town's economy is also highly dependent on its seasonal residents, who visit the Town from the fall through the end of spring each calendar year. Food service and other local businesses rely on the Town's seasonal residents as well as tourists to maintain operation during the winter season.

In view of the significant hardship on the operations of these businesses and the overall adverse economic impact on the Town, the Town is requesting your consideration to allow shipping containers and temporary structures, which are able to demonstrate that they can disassemble in a short period of time as evidenced in the La Ola Surfside Restaurant's video, to remain in place until June 1, 2025. An extension to June 1, 2025, would allow these local businesses to operate without interruption until the beginning of the next hurricane season.

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | F. 239-765-0909 | 2731 Oak Street, Fort Myers Beach, FL 33931



We appreciate your consideration of this request and look forward to discussing a limited extension of the November 18, 2024 deadline only for the removal of shipping containers and temporary structures, which can demonstrate the ability to quickly evacuate when a Hurricane Watch or Warning is issued to June 1, 2025. While this request is considered, the Town intends to continue its efforts achieve compliance with the November 18, 2024 deadline and removal of non-compliant shipping containers and temporary structures, such as La Ola Surfside Restaurant. Please do not hesitate to contact Frankie Kropacek, Operations & Compliance Director by phone at 239-955-3612 or by e-mail at fkropacek@fmbgov.com with any questions you may have. The Town looks forward to receiving a response to you regarding this request.

Sincerely,

Dan Allers, Mayor

Jim Atterholt, Vice Mayor

John R. King, Councilor

Karen Woodson, Councilor

Scott Safford, Councilor

Cc: Andrew Hyatt, Town Manager
Becky Vose, Town Attorney
Nancy Stuparich, Town Attorney
Amy Baker, Town Clerk
Frankie Kropacek, Operations & Compliance Director

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | F. 239-765-0909 | 2731 Oak Street, Fort Myers Beach, FL 33931

I certify that this document is
a true copy of the original

Signed: Carly Baker

Date: 11/6/2025

I certify that this document is
a true copy of the original
Signed: [Signature]
Date: 11/6/2025

U. S. Department of Homeland Security
Region 4
3005 Chamblee Tucker Road
Atlanta, GA 30341



FEMA

November 12, 2024

The Honorable Dan Allers
Mayor, Town of Fort Myers Beach
2731 Oak Street
Fort Myers Beach, FL 33931

Re: Removal of Shipping Containers and Temporary Structures Town of Fort Myers Beach Post
Disaster Compliance Report

Dear Mayor Allers:

I received the letter from the Fort Myers Beach Town Council requesting an extension for the removal of non-compliant shipping containers and temporary structures located in the Special Flood Hazard Area and Coastal High Hazard Area.

While I understand and appreciate the importance of these structures to the Town's economy and recovery, the Code of Federal Regulations that governs the National Flood Insurance Program defines the development in question as structures – not recreational vehicles. Because of this, the fact that the structures can be removed pre-event is not relevant as those conditions apply to recreational vehicles only. There are no regulations for temporary structures and occupancy which means all development in the Special Flood Hazard Area must meet the NFIP minimum standards and local floodplain management regulations. FEMA is not able to issue exemptions to the NFIP minimum standards nor extend the existence of non-compliant development.

The purpose of these regulations is to protect lives and property in the Special Flood Hazard Area. These non-compliant structures are in the most 'at risk' flood area, VE zone, also known as the Coastal High Hazard Area, which received a 14-foot storm surge during Hurricane Ian. Allowing these structures to remain in place presents a hazard to residents and businesses in the event of another storm as demonstrated by Hurricanes Helene and Milton. For these reasons I am unable to grant the Town's request to allow the structures in question to remain in place beyond the current deadline.

I certify that this document is a true copy of the original
Signed: <u>Jacky Bell</u>
Date: <u>11/6/2025</u>

You have my commitment to continue to support you and your team as you manage Hurricane Ian recovery and as you work to take the necessary compliance measures to avoid probation and possible suspension from the NFIP. If you have any questions or at any time need technical assistance to address these issues, please contact FEMA Region 4 Office, Jason Hunter, Floodplain Management and Insurance Branch chief, at Jason.hunter@fema.dhs.gov or 770-220-5471.

Sincerely,

Jacky S. Bell
Mitigation Division Director

cc: Kevin Guthrie, Executive Director, Florida Division of Emergency Management



FEMA

November 21, 2024

Andy Hyatt, Manager
Town of Fort Myers Beach
2731 Oak Street
Fort Myers Beach, FL 33931

Re: National Flood Insurance Program Participation

Dear Mr. Hyatt:

Once again, I'd like to thank you and your staff for the long hours and hard work during the last several months to correct the Town of Fort Myers Beach's issues regarding the National Flood Insurance Program (NFIP). Our teams have made great progress in helping ensure the city and their residents are more resilient and prepared for future storms.

On July 19, 2024, the Town received a letter from this office indicating the potential of being placed in probationary status with the NFIP if certain conditions were not met. These conditions consisted of five action items to be completed by November 18, 2024.

These action items were:

1. Develop and submit a plan that includes actions and timelines to address all identified program deficiencies and violations to the maximum extent possible.
2. Assess all floodplain development from Hurricane Ian in the Special Flood Hazard Area, ensuring that permits for all repairs, construction and development were obtained consistent with local floodplain management regulations.
3. Provide documentation that demonstrates your community is leveraging its code enforcement process to address new and existing code cases for all structures not confirmed as compliant.
4. Put a process in place to ensure substantial damage compliance for future events.
5. Remove noncompliant structures that were incorrectly permitted and should not have been placed in the Special Flood Hazard Area.

We appreciate that the Town of Fort Myers Beach accomplished the first and fourth action items by submitting a plan to address deficiencies and establishing a process to ensure substantial damage compliance for future events.

However, our teams have identified additional work that needs to occur for items 2, 3 and 5.

The crosswalk assessment tool created has not been completed by town officials which prevents both items 2 and 3 from being completed. For the 5th item, the town also did not remove non-compliant structures that were incorrectly permitted and should not have been placed in the Special Flood Hazard Area.

We acknowledge the work invested by you and your team has resulted in some improvements to meet minimum floodplain management standards. However, because of the outstanding compliance issues remaining, **the Town will be placed on probation with the National Flood Insurance Program effective November 18, 2024.**

During this probationary period, flood insurance coverage will remain available within the Town of Fort Myers Beach; however, a \$50 surcharge will be added to the premium of each new and renewed flood insurance policy sold within the community. Probation will remain in effect until all remaining program deficiencies and violations have been corrected to the maximum extent possible. Effective April 1, 2025, the town will be retrograded to a Class 10 in the Community Ratings System and policy premium discounts will not be applied to new or renewing policies. The Town is not eligible to reapply to the Community Rating System for a higher-class rating until the Town's probationary period is concluded, the Town is in full compliance with the minimum requirements of the National Flood Insurance Program, and at least two years has passed since the Town was placed in probationary status.

I am committed and I've instructed my staff that we will continue to provide technical assistance to Fort Myers Beach to meet the required program standards and potentially end probation as soon as practicable.

If you have any questions or at any time need technical assistance to address these issues, please contact FEMA Region 4 Office, Jacky Bell, Mitigation Division Director, at jacky.bell@fema.dhs.gov or 404-273-4710.

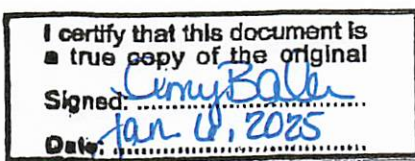
Sincerely,



Robert D. Samaan
Regional Administrator

cc:

Jason Hunter, Region Floodplain Management & Insurance Branch Chief
Jillian Kraynak, Florida NFIP State Coordinator



RESOLUTION NUMBER 24-296

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA ADOPTING A RESOLUTION TO REVOKE AND RESCIND EMERGENCY TEMPORARY PLACEMENT PERMITS AS PROVIDED AND AUTHORIZED IN SECTION 2 OF ORDINANCE 24-4 OF THE TOWN OF FORT MYERS BEACH, WHICH CLARIFIED ORDINANCE 23-05 RELATED TO TEMPORARY PLACEMENT PERMITS, IN FURTHERANCE AND IN SATISFACTION OF DIRECTION CONTAINED IN A LETTER DATED NOVEMBER 21, 2024 FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY ("FEMA") MANDATING REMOVAL OF NONCOMPLIANT STRUCTURES THAT WERE INCORRECTLY PERMITTED IN THE SPECIAL FLOOD HAZARD AREA, IN ORDER TO COMPLY WITH MINIMUM FLOODPLAIN STANDARDS AND THE REQUIREMENTS OF THE NATIONAL FLOOD INSURANCE PROGRAM; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article VIII, Section 2 of the State Constitution and Chapter 166 of the 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 services, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter empowers the Town Council to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, on September 28, 2022, Hurricane Ian made landfall north of the Town causing historical property damage and loss of life; and

WHEREAS, the Town Council recognized that recovery from a devastating natural disaster such as Hurricane Ian, created an immediate need for temporary housing, governmental services, and commercial uses for the Town's residents and adopted Ordinance 23-05 on May 15, 2023 to provide a temporary relief and the placement of certain structures in the Special Flood Hazard Area; and

WHEREAS, on May 6, 2024 the Town Council adopted Ordinance 24-04 amending and restating Ordinance 23-05 to clarify its intent at the time of adoption and to continue to provide temporary assistance to residents and to aid in the Town's redevelopment efforts by the emergency temporary placement of structures governmental, residential (manufactured homes, mobile homes, motor homes, recreational vehicles, or other temporary residential dwellings) or moveable commercial use; and

WHEREAS, both ordinances provided that permits issued under either Ordinance would be issued in increments of 6 months and would not exceed 18 months without demonstration of a hardship to the Town Manager; and

WHEREAS, Section 2 of Ordinance 24-04 further clarified that the Town Council intended permitted uses to be temporary in nature, and thereby subject to revocation and rescission at a future date under certain circumstances. More specifically, Paragraph 2 of Ordinance 24-04 identified several circumstances in which these temporary permitted uses required removal:

Unless otherwise provided in this Ordinance or in a Resolution that is adopted hereinafter 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 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. (Emphasis added).

WHEREAS, Section 2 of Ordinance 24-04(xi) also provided that the issued permit could be revoked for "noncompliance with applicable federal law/regulation, state law and town code"; and

WHEREAS, the number of outstanding temporary permits approved by the Town has decreased as a result of additional hurricanes impacting the Town subsequent to Hurricane Ian, the permitted rebuilding of destroyed properties; and the voluntary removal of the temporary permitted uses; and

WHEREAS, on July 19, 2024 and September 3, 2024, the Town was notified by the Federal Emergency Management Administration ("FEMA") that the Town would be placed on permanent probation from participation in the National Flood Insurance Program if it allowed structures needed for these temporary uses to continue subsequent to November 18, 2024 in the Special Flood Hazard Area; and

WHEREAS, Section 6-494 of the Town of Fort Myers Beach Land Development Code defines the Special Flood Hazard Area as "[a]n area in the floodplain subject to a one- percent or greater chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V. [Also defined in FBC, B Section 202.]", which in effect encompasses the entirety of the Town; and

WHEREAS, despite efforts by the Town Council to extend the November 18, 2024 FEMA deadline, the Town was notified by letter on November 21, 2024, that the Town was placed on probation with the National Flood Insurance Program effective November 18, 2024 in part due to its failure to "[r]emove noncompliant structures that were incorrectly permitted and should not have been placed in the Special Flood Hazard Area"; and

WHEREAS, in order to comply with minimum floodplain standards and the requirements of the National Flood Insurance Program, the Town must now revoke and rescind emergency temporary placement permits which allow noncompliant structures in the Special Flood Hazard Area; and

WHEREAS, the definition of a "structure" for floodplain management purposes pursuant to 44 CFR Part 59.1 includes "any walled and roofed building, manufactured home or travel trailer without wheels," and

WHEREAS, the definition of a "manufactured home" for floodplain management purposes pursuant to 44 CFR 59.1 is "a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle"; and

WHEREAS, adoption of this Resolution is in the best interest of the residents of the Town as a step towards removal of its probationary status in the National Flood Insurance Program and compliance with its floodplain regulations.

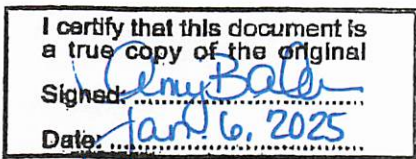
NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

Section 1. The foregoing "Whereas" clauses are ratified and confirmed as being true and correct, are the legislative and administrative findings of the Town Council and are made a specific part of this Resolution.

Section 2. All emergency temporary placement permits for "noncompliant structures that were incorrectly permitted and should not have been placed in the Special Flood Hazard Area" are hereby revoked and rescinded.

Section 3. The Town Manager is directed and authorized to immediately take the following actions to implement this Resolution:

1. Provide formal Notice to holders of any emergency temporary placement permit by certified mail, posting on the property and any other known method for notification that:
 - a) the permit is revoked and rescinded as of December 16, 2024; and
 - b) the permit holder may appeal this revocation action pursuant to Section 34-86 of the Code of Ordinances as stated in Section 4 of Ordinance 24-04, or by any other lawful means; and
 - c) the contact information for a member of the Town staff, who can answer questions and provide more information.



The Notice shall also include a copy of this Resolution and FEMA's letter of November 21, 2204

2. Initiate or continue any needed code enforcement action against permit holders who fail to immediately begin removal of noncompliant structures.

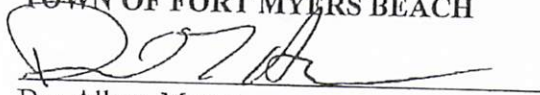
Section 4. This Resolution shall take effect immediately upon its adoption by the Town Council of the Town of Fort Myers Beach.

THE FOREGOING RESOLUTION was adopted by the Town Council upon motion by Mayor Allers and seconded by Vice Mayor Atterholt, and upon being put to a vote, the result was as follows:

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

APPROVED AND ADOPTED this 16th day of December 2024, by the Town Council of the Town of Fort Myers Beach, Florida.

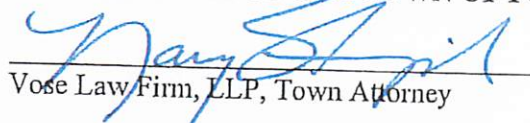
TOWN OF FORT MYERS BEACH


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, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 16th day of December 2024.



FEMA

July 24, 2025

The Honorable Will McKannay
Town Manager, Town of Fort Myers Beach
6231 Estero Blvd
Fort Myers Beach, FL 33931

Reference: National Flood Insurance Program (NFIP) Community Assistance Visit (CAV)
Report of Findings

Dear Mr. McKannay:

The purpose of this letter is to provide you with our findings from the CAV that the Federal Emergency Management Agency (FEMA) conducted from Tuesday, July 15, 2025, to Thursday, July 17, 2025. Thank you for the courtesy extended to Tamara Hansen, Pier Janrhett and Yuzzeff Henderson of FEMA Region 4 and Scott Gaines, of the Florida Department of Emergency Management (FDEM).

An introductory meeting was held by FEMA Specialists Tamara Hansen, Pier Janrhett, Yuzzeff Henderson Melendez, Scott Gaines with FDEM, yourself and members of the Town of Fort Myers Beach staff including Thomas Yozzo, Tracie Kohler, Kelly Defedericis, Frankie Kropacek, Georgina Cid, Shanette Thomas and Traci Raski. FEMA Region 4 Staff, Jacky Bell and Jason Hunter, Mr. Michael Burchette (FDEM) attended virtually. As stated during the meeting, we are very appreciative of the Town's efforts to prepare for the CAV and extended attendance of your staff for the duration of the CAV.

The purpose of this visit was to determine if the Town of Fort Myers Beach's floodplain management program is compliant with the minimum requirements of the National Flood Insurance Program. During this visit, outstanding sites identified in the Community Rating System (CRS) Retrograde appeal process in April 2024, were discussed. These sites were originally identified during field tours conducted in October and November 2023, following technical assistance visits after Hurricane Ian. During the permit reviews conducted as part of the CRS Retrograde appeal process, FEMA personnel identified various actions that were in violation of the Town's floodplain management program resulting in the community's probation from the National Flood Insurance Program. Subsequently, the Town was retrograded in CRS, effective April 1, 2025.

On April 28, 2025, the Town was notified that the requirement to be removed from probation under the NFIP had been met, effective November 18, 2025.

During the CAV, the Town of Fort Myers Beach's floodplain management program and the floodplain development permit process were reviewed and discussed. Additionally, a field tour was conducted to capture potential violations in the floodplain.

We have reviewed the Town's floodplain management regulations in Ordinance 24-03 and found that it meets the minimum requirement of the National Flood Insurance Program. We didn't find language adopting Limit of Moderate Wave Action requirements beyond the Florida Building Code, nor the state's accessory language which is based upon FEMA Policy #104-008-03. Please contact Scott Gaines at scott.gaines@em.myflorida.com if the Town is interested in adopting language related to either of these topics.

During the visit, the following programmatic deficiencies were identified and must be resolved:

1. Substantial Damage/Substantial Improvement Determination Process

○ *Concerns:*

- During the permit documentation review, evidence showed that permits were issued prior to a Substantial Damage/Substantial Improvement determination having been made by the Town, resulting in non-compliant structures that were potentially Substantial Damaged/Substantial Improved and repaired without being brought into compliance with the Town's floodplain management regulations.
- Additionally, the permitting staff who reviewed and issued permits didn't have access to Substantial Damage determinations list, which lead to permits being issued for structures that had been deemed to be Substantially Damaged, without ensuring the structures were brought into compliance with the Town's floodplain management regulations.
- Some of the cost to repair estimates seem to only include costs to repair damages located below the base flood elevation.
- In the Town's Substantial Damage Management Plan, November 2024-Draft, *Cost of Work Verification – Pre-Permit Issuance* section, it indicates that verification of repairs and associated cost to repair the structure will be accounted for before issuing a building permit.
-

○ *Corrective actions require:*

- On or before August 8, 2025, provide a Standard Operating Procedure that documents the Substantial Damage/Substantial Improvement Determination Process and the permitting process. This should include how determinations are shared with staff who process permit applications.

2. Floodplain reviews related to Private Providers

○ *Concerns:*

- The Town requires Under Construction Elevation Certificates to be submitted and approved, before the building's construction goes vertical.
- Private providers aren't complying with this requirement. Permits that were reviewed for documented structures well beyond this tie-beam inspection that had failed to submit Under Construction Elevation Certificates.
- Failure to take corrective actions can result in non-compliant structures being identified after construction has been completed.

○ *Corrective actions require:*

- On or before August 8, 2025, provide revised permitting process procedures and any supporting documentation that addresses failure by the Private Providers to meet the Town's requirement for submittal of the Under Construction Elevation Certificate.

3. The Town adopted the following ordinances to allow temporary placement of various types of units: "Temporary Placement of Emergency Uses, Manufactured Homes, Mobile Homes, Motor Homes, Recreational Vehicles Other Temporary Residential Dwelling or Temporary Moveable Commercial Units" (Ordinance 23-05), "Temporary Governmental, Residential (Manufactured Homes, Mobile Homes, Motor Homes, Recreational Vehicles Other Temporary Residential Dwellings) or Movable Commercial Uses following Natural Disasters or Other Emergencies" (Ordinance 24-04), and "RESOLUTION TO REVOKE AND RESCIND EMERGENCY TEMPORARY PLACEMENT PERMITS" (Resolution Number 24-296).

▪ *Concerns:*

- Ordinance 23-05 and 24-04 authorized installation of non-compliant temporary units.
- Resulted in numerous non-compliant temporary units. Some have been removed, while others are still present.
- Resolution Number 24-296 (approved December 16, 2024) "mandated removal of noncompliant structures that were incorrectly permitted," but numerous noncompliant structures remain in place.

▪ *Corrective actions require:*

- On or before August 8, 2025, remove the non-compliant temporary structures.

During the field tour, data for 252 sites was collected. The list of addresses includes sites that fall into the following categories: 1) non-compliant structures that need to be mitigated, 2) structures that require additional documentation to determine compliance, and 3) temporary structures that need to be elevated and anchored or removed. The list of site addresses with the required action/documentation are in the attached Site List.

Following the field tour, an exit meeting was held with the Town, FEMA, and FDEM staff on July 17, 2025. FEMA's findings of the community's floodplain management program and the floodplain development permit process were discussed. As stated in the meeting, we ask that you review each program deficiency and the attached site list. The deadline to submit the requested documents or documented actions is August 8, 2025.

We recommend that the staff who support the administration and enforcement of the Town's floodplain management program, including code enforcement staff, also attend floodplain management training courses. FEMA's National Disaster and Emergency Management University (NDEMU) and the Florida Floodplain Managers Association (FFMA) offer various floodplain management-related training courses for local officials. For your convenience, web addresses for NDEMU's and FFMA's website are provided below:

www.training.fema.gov
flfloods.org

We appreciate the Town of Fort Myers Beach's commitment to administering the NFIP. We would like to remind you that the requirement for participation in the CRS is your community's full compliance with the NFIP. Again, we request that the Town provide the requested documentation by August 8, 2025, for consideration of reinstatement to the CRS program on April 1, 2026. If your staff members have questions or require additional information, Ms. Tamara Hansen may be reached by telephone at (770) 220-5288 or by e-mail at tamara.hansen@fema.dhs.gov and Pier Janrhett may be reached by telephone at (202) 826-5655 or by e-mail at pier.janrhett@fema.dhs.gov.

Sincerely,

Jacky S. Bell
Director
Mitigation Division

Attachment: Site List

Cc: Ms. Jillian Kraynak, Florida NFIP State Coordinator
Ms. Traci Kohler, Deputy Town Manager, Town of Fort Myers Beach
Ms. Kelli Defedericis, Floodplain Administrator, Town of Fort Myers Beach
Mr. Tom Yozzo, Emergency Services Director, Town of Fort Myers Beach
Mr. Frankie Kropacek, Operations & Compliance Director, Town of Fort Myers Beach

HEARING

EXHIBIT

C

- Notice of Violation



Town of Fort Myers Beach

CODE COMPLIANCE

2731 Oak Street Fort Myers Beach, FL 33931
Phone: (239) 765-0202 Fax: (239) 765-0909

11/13/2024

Case Number:	20241093
Certified Mail:	9589071052700183635942
Regular Mail	

ROYAL PELICAN TOWNHOUSE CONDO ASSN
13831 VECTOR AVE
FORT MYERS, FL 33907

SITE ADDRESS: 4501-4509 BAY BEACH LN
PARCEL STRAP NO: 034724W10560000CE

NOTICE OF VIOLATION

YOU ARE HEREBY NOTIFIED that an inspection of the above-referenced property on by Town of Fort Myers Beach Code Enforcement Officer **Thomas Yozzo** indicates that the following items are in violation:

For the keeping and/or maintaining of non-compliant structure(s) and/or shipping containers on property, which are not built to current flood design codes in the Special Hazard Areas as defined in Section 6-494 of the FMB Code of Ordinances.

These items are a violation of the following Town Codes:

ASCE 24-14 A copy is available at https://www.fema.gov/sites/default/files/2020-07/asce24-14_highlights_jan2015.pdf

Sec. 6-501. - Design and construction of buildings, structures and facilities exempt from the Florida Building Code. Pursuant to section 6-443, buildings, structures and facilities that are exempt from the Florida Building Code, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, must be designed and constructed in accordance with the flood load and flood-resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that are not walled and roofed buildings must comply with the requirements of division 10, subdivision VII.

Sec. 6-525. - General requirements for other development. All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this article or the Florida Building Code, must:

(1)Be located and constructed to minimize flood damage;(2)Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;(3)Be constructed of flood damage-resistant materials; and(4)Have mechanical, plumbing and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

COMPLIANCE:

The following action is needed to bring the violation(s) into compliance. 1) Remove Structure(s) and/or Shipping Containers from property. 2) Provide proof of compliance with the requirements of Chapter 6, Article IV Division Section 6-501 and 5-525 of the Land Development Code.

You are hereby directed to bring these violations into compliance within 30-days.

ONCE THIS VIOLATION(S) IS (ARE) IN COMPLIANCE, IT IS YOUR OBLIGATION TO NOTIFY CODE ENFORCEMENT SO THAT THE PROPERTY CAN BE INSPECTED TO VERIFY THAT THE VIOLATION(S) HAS (HAVE) BEEN CORRECTED ON OR BEFORE THE ABOVE-SPECIFIED COMPLIANCE DATE.

If you fail to correct the violation(s) by the date specified above, or if the violation(s) is (are) brought into compliance and reoccur(s), the case may be scheduled for hearing before the Town of Fort Myers Beach Special Magistrate. The Code Enforcement Division may, in their discretion, schedule the case for

a hearing and seek a finding of a violation by the Special Magistrate even if you have corrected the violation prior to the time set for the hearing.

You will be provided with a Notice of Hearing specifying the date, time and location of the hearing if, one is scheduled. Please be aware that under Florida Statutes, Chapter 162 and Town of Fort Myers Beach Land Development Code, Section 2-427(b), a fine of up to \$250.00 per day for the first violation or \$500.00 per day for a repeat violation may be imposed for each day the violation continues to exist past the date set for compliance by the Special Magistrate. If the Special Magistrate finds that a violation is irreparable or irreversible in nature, a fine of up to \$5,000.00 per violation may be imposed. The Special Magistrate may also assess the costs of prosecution of the case against you and you may be required to pay those fees, even if the violation has been corrected prior to the hearing.

Please contact the Town of Fort Myers Beach Code Enforcement Division at 239-292-3568 or code@fmbgov.com if you have any questions concerning this Notice of Violation.

Respectfully,

Thomas Yozzo
Code Enforcement Officer
Town of Fort Myers Beach



TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

ROYAL PELICAN TOWNHOUSE CONDO
ASSN
13831 VECTOR AVE
FORT MYERS, FL 33907

FMB Case Number:	20241093
Certified Mail:	9589071052700183635942
Regular Mail:	Standard 1st class
DOAH Case Number:	[Not Applicable]

Respondent,

Site Address: 4501-4509 Bay Beach LN.
Fort Myers Beach, FL, 33931
Parcel Strap No. 34-47-24-W1-05600.00CE

AFFIDAVIT OF NOTICE AND POSTING

STATE OF FLORIDA

COUNTY OF LEE

BEFORE ME, the undersigned authority personally appeared T. Yozzo who is the Code Enforcement Officer for the Town of Fort Myers Beach, who was sworn and under oath, deposes and says the following regarding case #20241093. For the keeping and/or maintaining of non-compliant structure(s) and/or shipping containers on property, which are not built to current flood design codes in the Special Hazard Areas as defined in Section 6-494 of the FMB Code of Ordinances. 4501-4509 Bay Beach Ln. Fort Myers Beach. FL 33931 attached

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | 2731 Oak Street, Fort Myers Beach, FL 33931



1. I personally mailed by certified mail a copy of the Notice of Violation 11/13/2024 to the following:

ROYAL PELICAN TOWNHOUSE CONDO ASSN
1381 VECTOR AVE
FORT MYERS, FL 33907

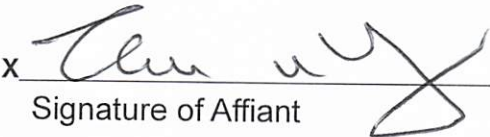
(Property Owner)

Copies of the certified mailing receipts are attached as evidence.

2. I had a copy of the Notice posted at 4501-4509 Bay Beach Ln, Fort Myers Beach, FL 33931, which is the subject property. I took a photographs of the Notice I posted on the 13th day of November 2024. A true, accurate and unaltered copy of the photographs are attached.
3. I posted a copy of the Notice at the primary municipal government office for the Town of Fort Myers Beach, which is Town Hall and located at 2731 Oak Street, Fort Myers Beach, FL 33931 to view 24 hours a day and 7 days a week. True, accurate and unaltered copies of photographs I took of the Notice posted on the 13th day of November 2024 are attached.



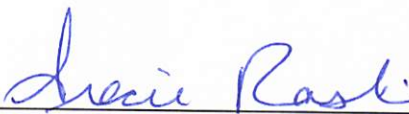
Under penalties of perjury, I declare that I have read the foregoing affidavit and that the facts stated in it are true and to the best of my knowledge and belief comply with Section 2-429 of the Town Land Development Code and Section 162.12, Florida Statutes.

x 
Signature of Affiant

**STATE OF FLORIDA
COUNTY OF LEE**

The foregoing instrument was sworn to, subscribed and acknowledged before me by means of either ☐ personal presence or ☐ online notarization this 13 day of November, 2024, by T. Yozzo. He ☐ is personally known to me or ☐ has produced _____ as identification.

[Notary Seal]


Notary Public, State of Florida
Print Name: Tracee Raski
My Commission Expires: 2/3/2029

9589 0710 5270 0183 6359 42

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com

OFFICIAL USE

Certified Mail Fee

\$

Extra Services & Fees (check box, add fee as appropriate)

- ☐ Return Receipt (hardcopy) \$
☐ Return Receipt (electronic) \$
☐ Certified Mail Restricted Delivery \$
☐ Adult Signature Required \$
☐ Adult Signature Restricted Delivery \$

Postage

\$

Total Postage and Fees

\$

Sent To

**ROYAL PELICAN TOWNHOUSE CONDO ASSN
13831 VECTOR AVE
FORT MYERS, FL 33907**

Postmark
Here

20241093

452-4529 Dry Bay

PS Form 3800, January 2023 (Rev. 7-2019) PSN 7530-02-000-9001 See Reverse for Instructions



2525 Estero Boulevard
Fort Myers Beach, FL 33931

Town of Fort Myers Beach

DEC 4 2024

Received by: _____

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33931335425 ANK

CERTIFIED MAIL



9589 0710 5270 0183 6359 42

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FIRST CLASS



US POSTAGE PITNEY BOWES

ZIP 33931
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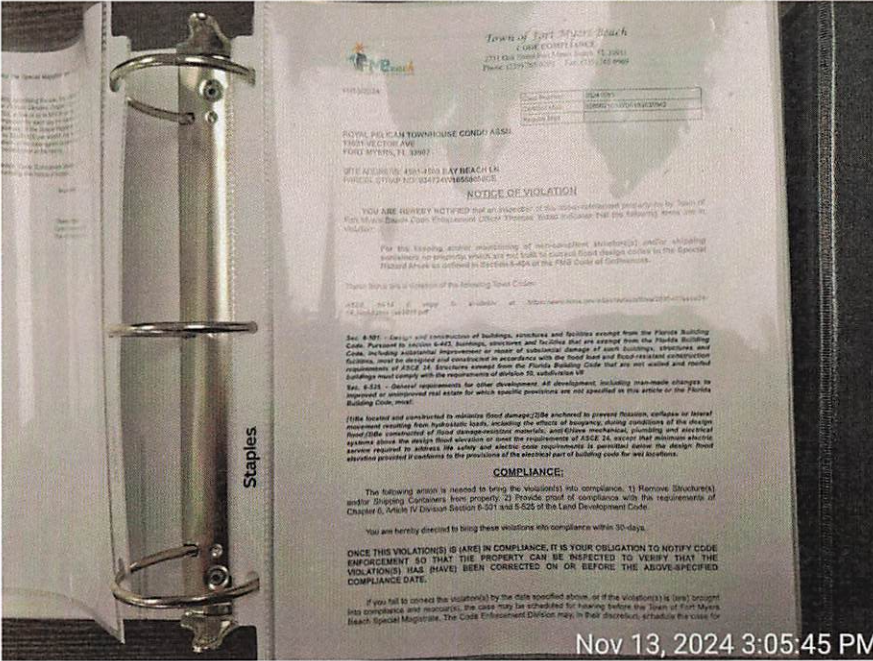
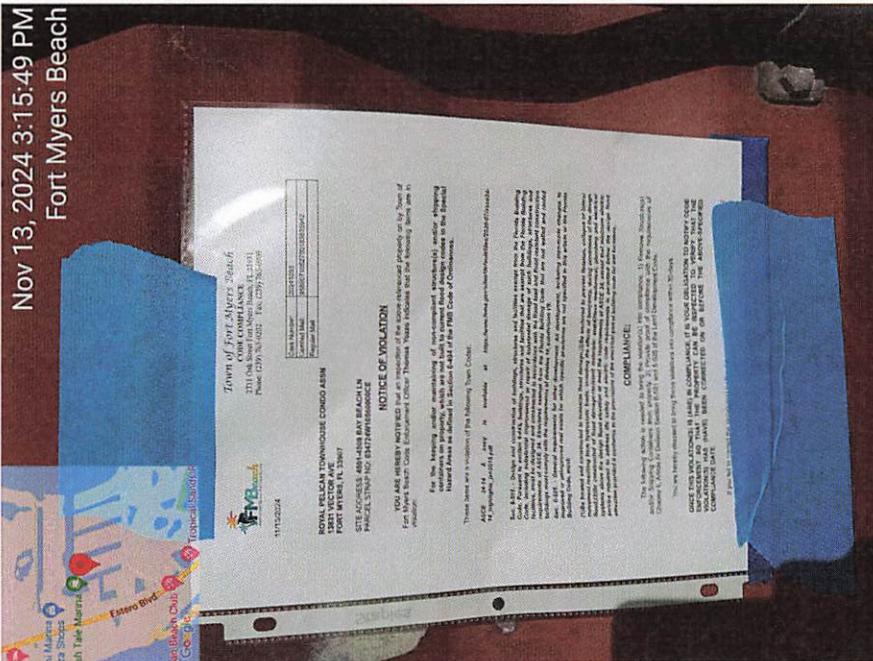
ROYAL PELICAN TOWNHOUSE CONDO ASSN
13831 VECTOR AVE
FORT MYERS, FL 33907

NIXIE 339 FE 1 0012/01/24

RETURN TO SENDER
ATTEMPTED - NOT KNOWN
UNABLE TO FORWARD

BC: 33931335425 *0775-05577-14-42

Nov 13, 2024 3:15:49 PM
Fort Myers Beach



Nov 13, 2024 3:05:45 PM



Nov 13, 2024 3:16:00 PM
Fort Myers Beach



HEARING

EXHIBIT

D

- Status of Compliance



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

09/15/2025

**TOWN OF FORT MYERS BEACH,
Petitioner,**

vs.

Case Number:	20241093
Certified Mail:	
Regular Mail:	

**ROYAL PELICAN TOWNHOUSE CONDO ASSN c/o SEACREST SOUTHWEST
PROPERTY**

Respondent.

Site Address: **4501-4509 BAY BEACH**
Parcel Strap No.: **03-47-24-W1-05600.00CE**

AFFIDAVIT OF COMPLIANCE

**STATE OF FLORIDA)
COUNTY OF LEE)**

BEFORE ME, the undersigned authority, personally appeared Thomas Yozzo, Code Enforcement Director for the Town of Fort Myers Beach, FL, who after being duly sworn, deposes and says:

1. I, Thomas Yozzo, am a person authorized by law to inspect violations of the Town of Fort Myers Beach Code contained herein and the statements set forth herein are based upon personal knowledge.
2. Royal Pelican Townhouse Condo c/o Seacrest Southwest Property (property owner) was observed in violation of ASCE 24-14, Sec. 6-501 & 6-525 of the Town of Fort Myers Beach Code of Ordinances, For the keeping and/or maintaining of non-compliant structure(s) and/or shipping containers on property, which are not built to current flood design codes in the Special Hazard Areas as defined in Section 6-494 of the FMB Code of Ordinances. , at the property located at 4501-4509 Bay Beach Ln, Fort Myers Beach, FL 33931 ("Subject Property").

3. A Notice of Violation was issued on 11/13/2024, and sent certified mail to the address of record, 1044 Castello Dr #206, Naples, FL 34103, posted to the violation property located at 4501-4509 Bay Beach Ln, Fort Myers Beach, FL 33931, and posted to Town Hall located at 2731 Oak St., Fort Myers Beach, FL 33931.
4. Royal Pelican Townhouse Condo Assn was/were given 30-days to come into compliance with the Town of Fort Myers Beach Ordinance, which was on or before 08/29/2025.
5. Royal Pelican Townhouse Condo Assn was scheduled to appear before the Special Magistrate on October 1st 2025. The case is fully prepared and ready for trial.
6. I performed an inspection of the Subject Property on 09/16/2025, and the Subject Property was observed to be compliant with the Town of Fort Myers Beach Ordinance.
7. I have attached photographs of the Subject Property, which I personally took, and which fairly represent the current condition of the Subject Property I personally observed on 09/16/2025. These photographs are true, unaltered and accurate.
8. I have personal knowledge of all these facts, and each is true to the best of my knowledge and belief.
9. The Town of Fort Myers Beach hereby has determined the property located at 4501-4509 Bay Beach Ln is in compliance with Fort Myers Code of Ordinances.

FURTHER AFFIANT SAYETH NAUGHT.

Signature of Affiant:



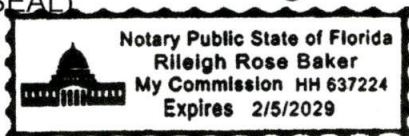
**STATE OF FLORIDA
COUNTY OF LEE**

The foregoing instrument was certified and subscribed before me by means of X physical presence OR _____ online notarization, this 23 day of September, 2025, by Thomas Yozzo, X who is personally known to me OR _____ who has produced _____ as identification.

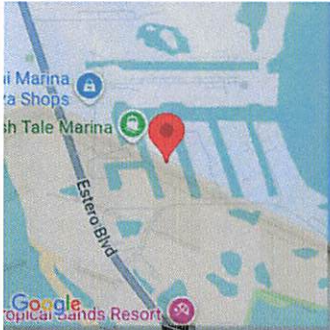
Notary Public Signature:



(SEAL)



Sep 16, 2025 12:58:35 PM
Fort Myers Beach



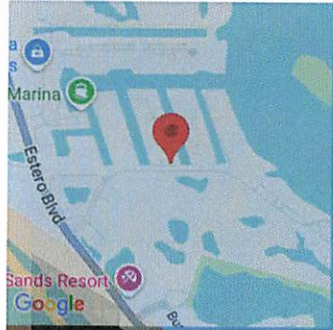
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Fort Myers Beach



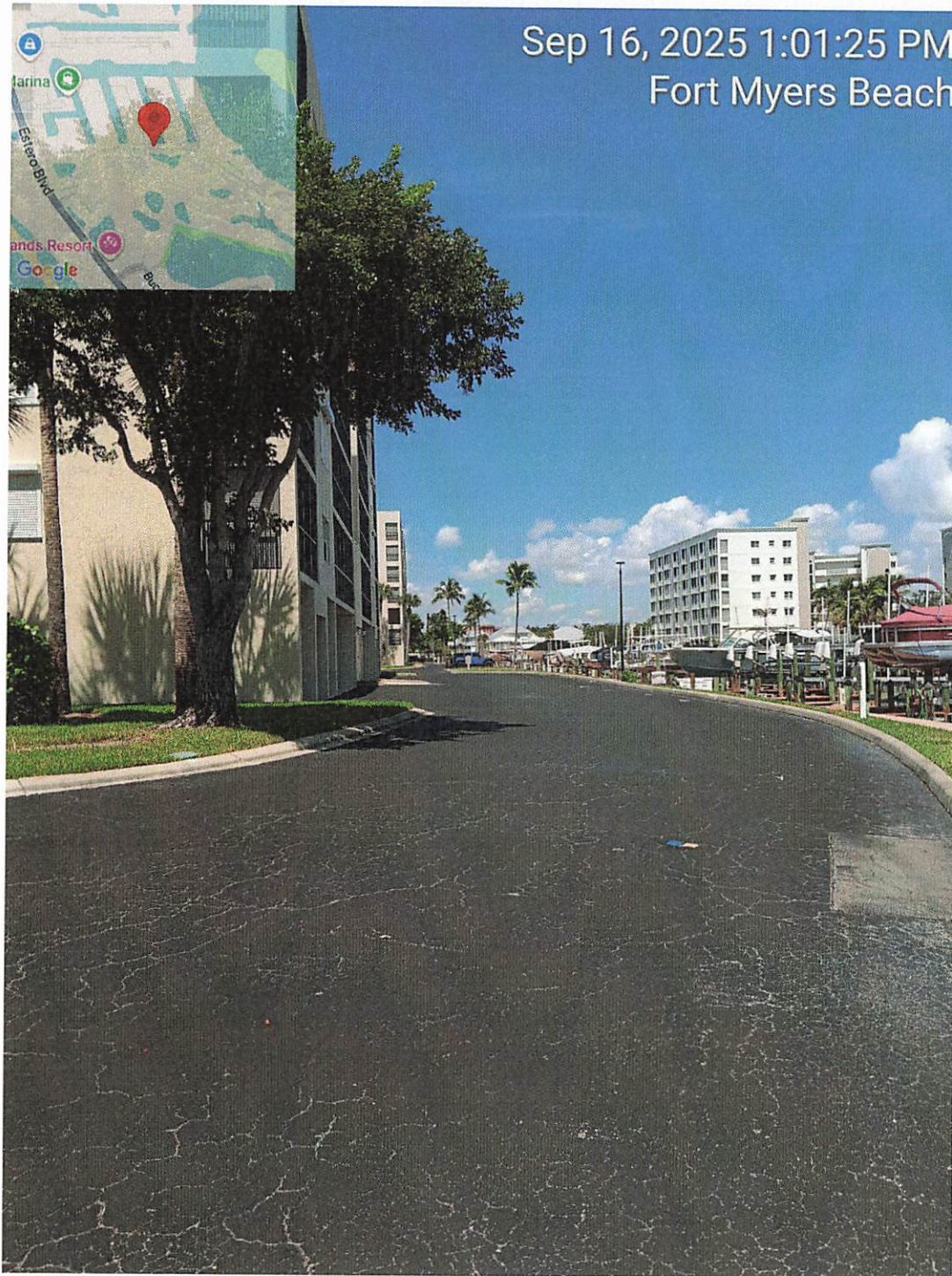
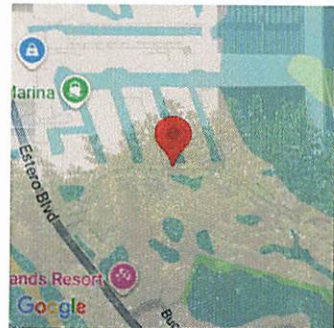
Sep 16, 2025 1:01:55 PM
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Sep 16, 2025 1:01:25 PM
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Sep 16, 2025 12:59:16 PM
Fort Myers Beach



Sep 16, 2025 12:58:43 PM
Fort Myers Beach



HEARING

EXHIBIT

E

- Violated Regulations

Sec. 6-501. - Design and construction of buildings, structures and facilities exempt from the Florida Building Code.

Pursuant to ~~section 6-443~~, buildings, structures and facilities that are exempt from the Florida Building Code, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, must be designed and constructed in accordance with the flood load and flood-resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that are not walled and roofed buildings must comply with the requirements of division 10, subdivision VII.

(Ord. No. 16-02, § 2, 8-8-2016)

Sec. 6-525. - General requirements for other development.

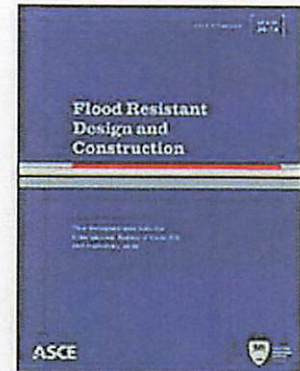
All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this article or the Florida Building Code, must:

- (1) Be located and constructed to minimize flood damage;
- (2) Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
- (3) Be constructed of flood damage-resistant materials; and
- (4) Have mechanical, plumbing and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

(Ord. No. 16-02, § 2, 8-8-2016)

HIGHLIGHTS OF ASCE 24-14 *Flood Resistant Design and Construction*

Published by the American Society of Civil Engineers (ASCE), *Flood Resistant Design and Construction*, ASCE 24, is a referenced standard in the *International Codes*[®] (I-Codes[®]). ASCE 24 states the minimum requirements and expected performance for the siting and design and construction of buildings and structures in flood hazard areas that are subject to building code requirements. Types of buildings and structures are described in ASCE 24-14, Table 1-1 (see page 5 of these Highlights), and include commercial, residential, industrial, educational, healthcare, critical facilities, and other occupancy types. Buildings and structures designed according to ASCE 24 are better able to resist flood loads and flood damage.



FEMA deems ASCE 24 to meet or exceed the minimum National Flood Insurance Program (NFIP) requirements for buildings and structures. ASCE 24 includes additional specificity, some additional requirements, and some limitations that are not in NFIP regulations.

Buildings and structures within the scope of the IBC and proposed to be located in any flood hazard area must be designed in accordance with ASCE 24. The 2015 I-Codes reference ASCE 24-14, while the 2006 through 2012 I-Codes reference ASCE 24-05. The *International Residential Code*[®] requires dwellings in floodways to be designed in accordance with ASCE 24, and the 2015 edition of the IRC allows use of ASCE 24 for dwellings in any flood hazard area (the 2012 and 2009 editions allow use of ASCE 24 in Coastal High Hazard Areas).

Highlights of ASCE 24-14 that complement the NFIP minimum requirements are described below.

A summary of significant technical revisions from ASCE 24-05 to ASCE 24-14 is reproduced on page 6 of these Highlights.

Building Performance

- Flood loads and other loads and load combinations are specified in ASCE 7-10, *Minimum Design Loads for Buildings and Other Structures*. Performance of foundations exposed to flooding is specified in ASCE 24. Soil characteristics and underlying strata, including soil consolidation, expansion or movement, erosion and scour, liquefaction and subsidence must be considered, as applicable.
- Flood Design Classes replace Occupancy/Risk Categories for the purpose of establishing elevations of lowest floors, flood-resistant materials, equipment and floodproofing. The 2015 *International Building Code* requires designers to identify the Flood Design Class assigned in accordance with ASCE 24-14.
- Elevation and Freeboard (additional height above the NFIP's base flood elevation) are specified as a function of the Flood Design Class and the nature of the flood hazard areas (see table on page 4 of these Highlights). Essential facilities (Flood Design Class 4) must be elevated or protected to the BFE + 2 ft or 500-year flood elevation, whichever is higher.
- Elevation requirements in Zone V and Coastal A Zones are independent of orientation of the lowest horizontal structural member (relative to direction of wave approach) as a factor in determining the required freeboard (ASCE 24-05 made elevation a function of orientation of the lowest horizontal structural member relative to the direction of wave approach).

ASCE 24 uses 'design flood' and 'design flood elevation' to acknowledge that some communities adopt flood hazard maps that depict flood hazard areas in addition to Special Flood Hazard Areas shown on FEMA's Flood Insurance Rate Maps (FIRM).

The design flood elevation (DFE) equals the base flood elevation (BFE) in communities that regulate based on FIRMs. The DFE is always equal to or higher than the BFE.

- Fill is required to be stable under conditions of flooding, including rapid rise and rapid drawdown, prolonged inundation, and erosion and scour. Compaction of structural fill is specified unless otherwise required by the building code or in a geotechnical or engineering report. Fill side slopes must be no steeper than 1:1.5.
- Two methods are specified to meet the requirements for flood openings in walls of enclosures below elevated buildings, to allow for the automatic entry and exit of floodwater: nonengineered openings that do not require certification (1 sq in per sq ft of enclosed area) and engineered openings that must be certified by a registered design professional. The performance of engineered openings must account for the presence of louvers, blades, screens, grilles, faceplates, or other covers and devices and must ensure that the difference between the exterior and interior floodwater levels does not exceed 1 foot. Installation of all flood openings must be in at least two walls and must be no more than 1 foot above the higher of the interior grade or floor and the finished exterior grade immediately under each opening.
- All breakaway walls in all flood hazard areas must have flood openings (ASCE 24-05 did not require flood openings in Zone V breakaway walls).
- Provisions are included for attached and detached decks and porches, and for garages, carports, and accessory storage structures.
- Provisions are listed for concrete slabs-on-grade, depending on the purpose and location of the slabs.
- Stairways and ramps must be designed and constructed to resist flood loads and to minimize transfer of flood loads to foundations, or to break away without causing damage to the main structure, or to be retractable/able to be raised.
- Where stairways are located inside areas enclosed with breakaway walls, exterior doors are required at the main building entry at the top of the stairs, to minimize entry of wind-driven rain and wave splash after breakaway walls have failed.
- In Coastal High Hazard Areas (Zone V) and Coastal A Zones:
 - Coastal A Zones are treated like Coastal High Hazard Areas if FEMA has delineated a Limit of Moderate Wave Action, or if the community has designated a Coastal A Zone.
 - Buildings must be supported on piles, drilled shafts, caissons, or other deep foundations (including columns, and shear walls) and foundation depth must take into account erosion and local scour.
 - Stem walls supporting floors and backfilled with soil or gravel are allowed in Coastal A Zones if designs provide for the effects of local scour and erosion.
 - Requirements are included for shallow foundations in circumstances where soil conditions prevent deep foundations.
 - Provisions are provided for pile foundations, attachment to piles, and different types of piles (wood, steel H, concrete-filled steel pipe, prestressed concrete, precast concrete, cast-in-place concrete).
 - Provisions are provided for pile design (capacity, capacity of supporting soils, minimum penetration, spacing, connections, splicing, and mixed and multiple types of piles).
 - Provisions are provided for footings, mats, rafts, slabs-on-grade, pile caps, grade beams, bracing, and shear walls.
 - Walls designed to break away must not produce debris that is capable of damaging structures.
 - Erosion control structures (bulkheads, seawalls, revetments) must not be attached to buildings or direct floodwater into or increase flood forces or erosion impacts on structures.
 - Pools must be elevated, or designed to breakaway without producing damaging debris, or designed to remain in the ground without obstructing flow that causes damage. Pools must be structurally independent of buildings and structures unless pools are located in or on elevated floors or roofs that are above the design flood elevation.

- Dry floodproofed nonresidential buildings and non-residential portions of mixed-use buildings:
 - The terms “mixed use” and “residential portions of mixed use” now are defined in Commentary.
 - Dry floodproofing measures are not permitted in Coastal High Hazard Areas, Coastal A Zones, High Risk Flood Hazard Areas, where flood velocities exceed 5 ft/sec, and where conformance with certain human intervention limits cannot be achieved.
 - At least one exit door or emergency escape/rescue opening must be provided above the elevation specified for dry floodproofing.
 - If dry floodproofing measures specified require human intervention to activate or implement, there must be a minimum warning time of 12 hours unless a community warning system provides a warning time sufficient to accomplish certain activities. If removable shields are approved as part of design, flood emergency plans must address specified elements and actions and must be posted in at least two conspicuous locations.

Flood Damage-Resistant Materials

- Flood damage-resistant materials must be used below specified elevations (see table on page 4).
- Metal connectors and fasteners exposed to salt water, salt spray or other corrosive agents must be stainless steel or equivalent corrosion resistant material, or hot-dipped galvanized after fabrication.
- Where preservative treated wood is required, treatment must be in accordance with AWP requirements.

Attendant Utilities and Equipment

- Attendant utilities and equipment must be at or above specified elevations (see table on page 4), or must be specifically designed, constructed, and installed to prevent floodwaters from entering or accumulating within components.
- Fuel supply lines must be equipped with float operated automatic shut-off valves.
- Where required to meet life safety provisions of the code, certain exterior electrical components may be installed below the design flood elevation, provided they are installed on a non-breakaway structural element on the landward or downstream side of structures.
- Tanks that are below the design flood elevation and that are attached to or beneath buildings must be installed and anchored to resist at least 1.5 times the potential buoyant and other flood forces assumed to act on empty tanks.
- Elevator cabs that descend below the design flood elevation must be equipped with controls that prevent the cab from descending into floodwaters. Elevator shafts must be designed to resist flood loads, but are not required to have flood openings or breakaway walls.

Siting Considerations

- New buildings must not be built (1) seaward of the reach of mean high tide, or (2) in areas subject to flash flooding (floodwaters rise to 3 feet or more above banks in less than 2 hours). Unless protected, new buildings must not be built (1) in erosion-prone areas (determined by analysis); or (2) in mudslide areas (determined by analysis); or (3) in certain portions of alluvial fan areas; or (4) in high velocity flow areas (faster than 10 ft/sec); or (5) in ice jam and debris areas.
- Buildings in proximity to flood protective works (dams, levees, floodwalls, diversions, channels, flood control structures) must not have adverse effects on, or conflict with, maintenance and repairs of those protective works.

Prepared by FEMA Building Science Branch. Content from ASCE 24-14 used with permission from ASCE. Purchase ASCE 24 at www.asce.org.

See next page for description of Flood Design Classes →

		Flood Design Class 1	Flood Design Class 2	Flood Design Class 3	Flood Design Class 4
Minimum Elevation* of Lowest Floor (Zone A: ASCE 24-14 Table 2-1)	Zone A not identified as Coastal A Zone	DFE	BFE +1 ft or DFE, whichever is higher	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, or 500-year flood elevation, whichever is higher
Minimum Elevation of Bottom of Lowest Horizontal Structural Member (Zone V: ASCE 24-14 Table 4-1)	Coastal High Hazard Areas (Zone V) and Coastal A Zone	DFE	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, whichever is higher	BFE +2 ft or DFE, or 500-year flood elevation, whichever is higher
Minimum Elevation Below Which Flood-Damage-Resistant Materials Shall be Used (Table ASCE 24-14 5-1)	Zone A not identified as Coastal A Zone	DFE	BFE +1 ft or DFE, whichever is higher	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, or 500-year flood elevation, whichever is higher
	Coastal High Hazard Areas (Zone V) and Coastal A Zone	DFE	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, whichever is higher	BFE +2 ft or DFE, or 500-year flood elevation, whichever is higher
Minimum Elevation** of Utilities and Equipment (ASCE 24-14 Table 7-1)	Zone A not identified as Coastal A Zone	DFE	BFE +1 ft or DFE, whichever is higher	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, or 500-year flood elevation, whichever is higher
	Coastal High Hazard Areas (Zone V) and Coastal A Zone	DFE	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, whichever is higher	BFE +2 ft or DFE, or 500-year flood elevation, whichever is higher
Minimum Elevation of Dry Floodproofing of non-residential structures and non-residential portions of mixed-use buildings (ASCE 24-14 Table 6-1)	Zone A not identified as Coastal A Zone	BFE +1 ft or DFE, whichever is higher	BFE +1 ft or DFE, whichever is higher	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, or 500-year flood elevation, whichever is higher
	Coastal High Hazard Areas (Zone V) and Coastal A Zone	Not permitted	Not permitted	Not permitted	Not permitted
Minimum Elevation of Wet Floodproofing*** (ASCE 24-14 Table 6-1)	Zone A not identified as Coastal A Zone; Coastal A Zone; Coastal High Hazard Areas (Zone V)	BFE +1 ft or DFE, whichever is higher	BFE +1 ft or DFE, whichever is higher	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, or 500-year flood elevation, whichever is higher
* Flood Design Class 1 structures shall be allowed below the minimum elevation if the structure meets the wet floodproofing requirements of ASCE 24-14 Section 6.3. ** Unless otherwise permitted by ASCE 24-14 Chapter 7 *** Only if permitted by ASCE 24-14 Section 6.3.1					

ASCE 24-14 Table 1-1 Flood Design Class of Buildings and Structures	
Use or Occupancy of Buildings and Structures	Flood Design Class
Buildings and structures that normally are unoccupied and pose minimal risk to the public or minimal disruption to the community should they be damaged or fail due to flooding. Flood Design Class 1 includes (1) temporary structures that are in place for less than 180 days, (2) accessory storage buildings and minor storage facilities (does not include commercial storage facilities), (3) small structures used for parking of vehicles, and (4) certain agricultural structures. [Note (a)]	1
Buildings and structures that pose a moderate risk to the public or moderate disruption to the community should they be damaged or fail due to flooding, except those listed as Flood Design Classes 1, 3, and 4. Flood Design Class 2 includes the vast majority of buildings and structures that are not specifically assigned another Flood Design Class, including most residential, commercial, and industrial buildings.	2
Buildings and structures that pose a high risk to the public or significant disruption to the community should they be damaged, be unable to perform their intended functions after flooding, or fail due to flooding. Flood Design Class 3 includes (1) buildings and structures in which a large number of persons may assemble in one place, such as theaters, lecture halls, concert halls, and religious institutions with large areas used for worship; (2) museums; (3) community centers and other recreational facilities; (4) athletic facilities with seating for spectators; (5) elementary schools, secondary schools, and buildings with college or adult education classrooms; (6) jails, correctional facilities, and detention facilities; (7) healthcare facilities not having surgery or emergency treatment capabilities; (8) care facilities where residents have limited mobility or ability, including nursing homes but not including care facilities for five or fewer persons; (9) preschool and child care facilities not located in one- and two-family dwellings; (10) buildings and structures associated with power generating stations, water and sewage treatment plants, telecommunication facilities, and other utilities which, if their operations were interrupted by a flood, would cause significant disruption in day-to-day life or significant economic losses in a community; and (11) buildings and other structures not included in Flood Design Class 4 (including but not limited to facilities that manufacture, process, handle, store, use, or dispose of such substances as hazardous fuels, hazardous chemicals, hazardous waste, or explosives) containing toxic or explosive substances where the quantity of the material exceeds a threshold quantity established by the authority having jurisdiction and is sufficient to pose a threat to the public if released. [Note (b)]	3
Buildings and structures that contain essential facilities and services necessary for emergency response and recovery, or that pose a substantial risk to the community at large in the event of failure, disruption of function, or damage by flooding. Flood Design Class 4 includes (1) hospitals and health care facilities having surgery or emergency treatment facilities; (2) fire, rescue, ambulance, and police stations and emergency vehicle garages; (3) designated emergency shelters; (4) designated emergency preparedness, communication, and operation centers and other facilities required for emergency response; (5) power generating stations and other public utility facilities required in emergencies; (6) critical aviation facilities such as control towers, air traffic control centers, and hangars for aircraft used in emergency response; (7) ancillary structures such as communication towers, electrical substations, fuel or water storage tanks, or other structures necessary to allow continued functioning of a Flood Design Class 4 facility during and after an emergency; and (8) buildings and other structures (including, but not limited to, facilities that manufacture, process, handle, store, use, or dispose of such substances as hazardous fuels, hazardous chemicals, or hazardous waste) containing sufficient quantities of highly toxic substances where the quantity of the material exceeds a threshold quantity established by the authority having jurisdiction and is sufficient to pose a threat to the public if released. [Note (b)]	4
[Note (a)] Certain agricultural structures may be exempt from some of the provisions of this standard; see ASCE 24-14 Section C1.4.3. [Note (b)] Buildings and other structures containing toxic, highly toxic, or explosive substances shall be eligible for assignment to a lower Flood Design Class if it can be demonstrated to the satisfaction of the authority having jurisdiction by a hazard assessment as described in ASCE 7-10 Section 1.5.3 of <i>Minimum Design Loads for Buildings and Other Structures</i> that a release of the substances is commensurate with the risk associated with that Flood Design Class.	

Significant Technical Revisions

ASCE 24-14 lists a number of significant technical revisions from the 2005 edition:

1. Defines *Flood Design Class* rather than use Risk/Occupancy Classification assigned under ASCE 7 and requires each building or structure governed by the standard to be assigned to Flood Design Class 1, 2, 3, or 4. Uses the assigned Flood Design Class to apply elevation requirements specified in Chapters 2, 4, 5, 6 and 7. Flood Design Class 4 buildings and facilities are equivalent to Occupancy Category/Risk Category IV buildings, which ASCE 7-10 identifies as essential facilities.
2. Adds definitions for *Mixed Use* and *Residential Portions of Mixed Use* in commentary to clarify limitations on use of dry floodproofing measures.
3. Changes the Coastal A Zone determination requirement from the designer's responsibility to one depending on either: 1) delineation of a Limit of Moderate Wave Action (LiMWA) on a Flood Insurance Rate Map, or 2) designation by the Authority Having Jurisdiction.
4. Separates specifications for flood openings from the installation requirements. Requires the presence of louvers, blades, screens, faceplates, or other covers and devices to be accounted for in determining net open area for non-engineered openings and in determining the performance of engineered openings. Revises coefficient of discharge table for engineered flood openings. Adds commentary regarding selection of coefficient of discharge and for grouping or stacking of flood openings.
5. For Flood Design Class 4 buildings, requires the minimum lowest floor elevation (or floodproofing level of protection) to be the higher of: the Base Flood Elevation plus freeboard specified in Chapters 2, 4 and 6, the Design Flood Elevation, or the 500-year flood elevation. The 500-year flood elevation requirement is new.
6. Clarifies text pertaining to alluvial fan high risk flood hazard areas.
7. In coastal high hazard areas (V Zone) and Coastal A Zones (if delineated):
 - a. Makes explicit that designs must account for local scour and erosion
 - b. Provides for shallow foundations in Coastal A Zones under certain circumstances
 - c. Requires flood openings in breakaway walls
 - d. Eliminates orientation of the lowest horizontal structural member as a factor to determine elevation for lowest floors, equipment, and flood damage-resistant materials
 - e. Requires exterior doors at the top of stairways that are located inside enclosed areas with breakaway walls
 - f. Consolidates requirements for all nonstructural concrete slabs
 - g. Allows substantial improvement of existing buildings seaward of the reach of mean high tide in V zones (makes ASCE 24 consistent with NFIP) and Coastal A Zones.
8. Updates flood damage-resistant material requirements.
9. Clarifies emergency escape and rescue opening requirements for dry floodproofed buildings.
10. Clarifies requirements for garages, carports, and accessory storage structures. Adds new section for multistory parking structures.
11. Consolidates requirements for tanks and more clearly distinguishes between requirements based on flood hazard area.

Property Address and Owner:

Hearing Date: October 1, 2025

Property Owner: Moss Marine Freeland FL Holdings LLC
Property Address: 450 Harbor Ct
Violation: Non-Compliant Structure

Subject:

Code Section:

Reference Number:

Strap Number:

Officer:

Narrative:

Attachments:

1. 20250967_Hearing Exhibit A_Notice of Hearing and Affidavit of Posting
2. 20250967_Hearing Exhibit B_FEMA and Related Ordinances
3. 20250967_Hearing Exhibit C_Violated Regulations

Town Recommendations:

Town Approvals:

Thomas Yozzo, Emergency Services Director

Date: September 17, 2025



Traci Kohler, Deputy Town Manager

Date: September 17, 2025

nancy stuparich, Town Attorney

Date: September 23, 2025

Lizzette Roman, Town Clerk Administrative Coordinator

Date: September 24, 2025

Amy Baker, Town Clerk

Date: September 24, 2025

HEARING

EXHIBIT

A

- Notice of Hearing and Affidavit of Posting



Town of Fort Myers Beach

NOTICE OF VIOLATION AND NOTICE OF CODE ENFORCEMENT HEARING

6231 Estero Blvd, Fort Myers Beach, FL 33931

Phone : (239) 765-0202

Date: September 4, 2025

Case Number: **20250967**

Owner: **MOSS MARINA FREELAND FL HOLDINGS LLC**

Mailing Address: 450 Harbor CT, Fort Myers Beach, FL 33931

Property Address: **450 Harbor CT**, Fort Myers Beach, FL 33931

Certified Mail# 9589071052703142135286, 9589071052703142135262,
9589071052703142135279

Parcel: Standard First Class Mail

YOU ARE HEREBY NOTIFIED that the undersigned Code Officer alleges that on September 4, 2025 the following violation(s) of the Land Development Code of the Town of Fort Myers Beach, Florida, existed on the property above:

Code Violation: On 09/04/2025, a violation was discovered for the keeping and / or maintaining of non-compliant structure(s) on property, which are not built to current flood design codes in the Special Hazard Areas defined in Section 6-494 of the FMB Code of Ordinances. was identified as a violation of the Town's Codes:

ASCE 24-14 - A copy is available at https://www.fema.gov/sites/default/files/2020-07/asce24-14_highlights_jan2015.pdf

Sec. 6-501. - Design and construction of buildings, structures and facilities exempt from the Florida Building Code. - Pursuant to section 6-443, buildings, structures and facilities that are exempt from the Florida Building Code, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, must be designed and constructed in accordance with the flood load and flood-resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that are not walled and roofed buildings must comply with the requirements of division 10, subdivision VII.

Sec. 6-525. - General requirements for other development. - All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this article or the Florida Building Code, must:

(1) Be located and constructed to minimize flood damage;(2) Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;(3) Be constructed of flood damage-resistant materials; and(4) Have mechanical, plumbing and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and

electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

Corrective Action Required:

The following action is required to bring the violation(s) into compliance. (1) Remove structure(s) (2) Provide proof of Compliance with the requirements of Chapter 6, Article IV Division Section 6-501 and 5-525 of the Land Development Code. Contact Thomas Yozzo (Emergency Services Director) 239-765-0202

Compliance is required on or before: September 19, 2025

If the referenced violations are corrected from the date of issuance of this notice, you must contact the Code Enforcement Officer at (239) 765-0202.

A HEARING FOR THIS MATTER HAS BEEN SET BY THE SPECIAL MAGISTRATE CLERK FOR THE 1st DAY OF OCTOBER 2025, AT 9:00 AM, AT 6231 ESTERO BLVD, FORT MYERS BEACH, FL 33931. (Fort Myers Beach Town Hall Council Chambers)

☐ Should all violations not be corrected and approved by the undersigned Code Enforcement Officer within the date and time specified above, you will be required to appear at the prosecution of this matter before the Town's Special Magistrate for Code Compliance, pursuant to Division 2 of Article V of Chapter 2 of the Town Land Development Code and Chapter 162, Florida Statutes. **THIS HEARING, REQUIRING YOU TO BE PRESENT, WILL BE HELD IF THE VIOLATION(S) HAVE NOT BEEN BROUGHT INTO COMPLIANCE AND APPROVED BY THE CODE ENFORCEMENT DEPARTMENT BY Wednesday, September 3, 2025 AS EVIDENCED BY THE ISSUANCE OF AN AFFIDAVIT OF COMPLIANCE BY THE CODE ENFORCEMENT OFFICER.** If a violation is corrected and then recurs, or if a violation is not corrected by the time specified for correction by the code inspector, the case may be presented to the Special Magistrate even if the violation has been corrected prior to the board hearing.

☐ The Code Officer has reason to believe that the violation(s) or the condition causing the violation(s) presents a serious threat to the public health, safety, and welfare or is irreparable or irreversible in nature, and therefore, no compliance date has been provided. This case may be presented to the Special Magistrate even if the violation(s) have been corrected prior to the hearing.

☐ The Code Officer has reason to believe that repeat violations have been found, and therefore, no compliance date has been provided. This case may be presented to the Special Magistrate even if the repeat violation(s) have been corrected prior to the hearing.

The purpose of this Hearing is for the Special Magistrate to make "Findings of Fact" and "Conclusions of Law" relating to the violation(s) specified in the attached Violation detail and to issue an appropriate Order. The Hearing is also your opportunity to present evidence and/or contest the alleged violations, should you wish to do so. If a violation is found, the Order may require you to correct the violation(s) by a specified date. In addition, the Order may impose daily fines as per Florida Statutes Section 162.09(2)(a) of the following:

- \$250/ day per violation
- \$500/day for repeat offenses
- \$5,000 for irreversible or irreparable violations

Additionally, administrative fines may be imposed to recover all costs incurred by the Town in prosecuting this matter. If all violations are not corrected prior to the Hearing date, you may be assessed any such costs. **THE IMPOSITION OF FINES AND/OR COSTS MAY RESULT IN A LIEN AGAINST YOU AND YOUR PROPERTY.**

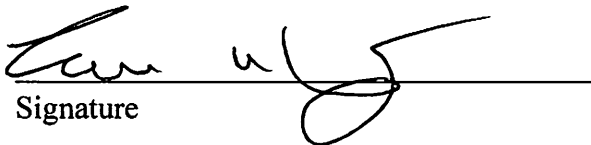
You should be aware that if the alleged violation(s) is/are corrected prior to the Hearing and recurs within five (5) years from the date of the original Notice of Violation, the case may be presented to the Special Magistrate as a Recurring Violation even if the violation is subsequently corrected.

You have the right to be represented by an attorney and to respond and present evidence and witnesses at the Hearing. If you wish to be represented by an attorney, your attorney **MUST** notify the Special Magistrate's Clerk in writing at least five (5) working days before the Hearing.

You may also have other rights which are set forth in Division 2 of Article V of Chapter 2 of the Town Land Development Code. If a person decides to appeal any decision with respect to any matter considered at this Hearing, such person will need to ensure that a verbatim record of the proceedings is made, which includes the testimony and evidence upon which the appeal is to be based (Section 286.0105, Florida Statutes).

For additional HEARING information, contact the Town of Fort Myers Beach Special Magistrate Clerk at (239) 765-0202 x 1351.

Thomas Yozzo



Signature

Code Enforcement Officer
Fort Myers Beach, Florida



TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

**MOSS MARINA FREELAND FL
HOLDINGS LLC**
450 Harbor Ct
Fort Myers Beach, FL 33931

FMB Case Number:	20250967
Certified Mail:	9589071052703142135262 9589071052703142135279 6589071052703142135286
Regular Mail:	Standard 1st Class
Magistrate Case Number:	Not Assigned

Site Address: 450 Harbor Ct
Fort Myers Beach, FL 33931
Parcel Strap No. 24-46-2-W3-00027.0000

Respondent,

AFFIDAVIT OF NOTICE AND POSTING

STATE OF FLORIDA

COUNTY OF LEE

BEFORE ME, the undersigned authority, personally appeared Thomas Yozzo, who is the Emergency Services Director for the Town of Fort Myers Beach, who was sworn and under oath, deposes and says the following regarding case #20250967 that certain Notice of Violation and Special Magistrate Code Hearing. Presented as Hearing Exhibit A ("The Notice")

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | 2731 Oak Street, Fort Myers Beach, FL 33931



I personally mailed by certified mail & first-class service a copy of the Notice of Violation to the following:

- a. Moss Marine Freeland FI Holdings LLC
450 Harbor Ct
Fort Myers Beach, FL 33931
Certified Mail No. 9589071052703142135286
(Listed Leepa.org / Lee County Tax Collector Property Owner Address)
- b. Moss Marine Freeland FL Holdings LLC
P.O. Box 656
Antioch TN 37011
(Alternative Listed Mailing Address)
- c. Moss Marine, INC
Bernard G Freeland
450 Harbor Ct
Fort Myers Beach, FL 33931
Certified Mail No. 9589071052703142135286
(Registered Agent for Company)

Copies of the certified mailing receipts are attached in Hearing Exhibit A.

1. I posted a copy of the Notice at 450 Harbor Ct, Fort Myers Beach, FL 33931, which is the subject property. I took photographs of the Notice I posted on the 5th day of September 2025. A true, accurate and unaltered copy of the photographs are attached in Hearing Exhibit A.
2. I posted a copy of the Notice at the primary municipal government office for the Town of Fort Myers Beach, which is Town Hall and located at 6231 Estero Blvd, Fort Myers



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

Beach, FL 33931. True, accurate and unaltered copies of photographs I took of the Notice posted on the 5th day of September 2025 are attached in Hearing Exhibit A.

3. In addition, I posted a copy of the Notice on the Town's publicly accessible website at <https://www.fortmyersbeachfl.gov/1294/Public-Notices> on the 5th day of September 2025. A copy of the posted webpage is attached as Evidence in Hearing Exhibit A.

Under penalties of perjury, I declare that I have read the foregoing affidavit and that the facts stated in it are true and to the best of my knowledge and belief comply with Section 2-429 of the Town Land Development Code and Section 162.12, Florida Statutes.

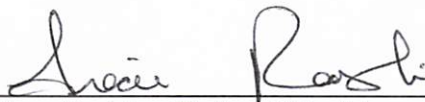
x 
Signature of Affiant

**STATE OF FLORIDA
COUNTY OF LEE**

The foregoing instrument was sworn to, subscribed and acknowledged before me by means of either ☒ personal presence or ☐ online notarization this 5 day of September, 2025, by T Yozzo. They ☒ are personally known to me or ☐ has produced _____ as identification.



[Notary Seal]


Notary Public, State of Florida
Print Name: Tracie Raski
My Commission Expires: 2/3/2029

FORT MYERS BEACH ESTERO ISLAND

P 239-765-0202 | 2731 Oak Street, Fort Myers Beach, FL 33931

9589 0710 5270 3142 1352 62

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee	\$	20250963
Extra Services & Fees (check box, add fee as appropriate)		Town of Fort Myers Beach
☐ Return Receipt (hardcopy)	\$	
☐ Return Receipt (electronic)	\$	SEP 05 2025
☐ Certified Mail Restricted Delivery	\$	
☐ Adult Signature Required	\$	
☐ Adult Signature Restricted Delivery	\$	
Postage	\$	
Total Postage and Fees	\$	450 HARBOR CT
FREELAND FL HOLDINGS LLC P.O. BOX 656 ANTIOCH TN 37011		

PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions

9589 0710 5270 3142 1352 66

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee	\$	2025096
Extra Services & Fees (check box, add fee as appropriate)		Town of Fort Myers Beach
☐ Return Receipt (hardcopy)	\$	
☐ Return Receipt (electronic)	\$	SEP 05 2025
☐ Certified Mail Restricted Delivery	\$	
☐ Adult Signature Required	\$	
☐ Adult Signature Restricted Delivery	\$	
Postage	\$	
Total Postage and Fees	\$	450 HARBOR CT
MOSS MARINA FREELAND FL HOLDINGS LLC BERNARD G FREELAND 450 HARBOR CT FORT MYERS BEACH, FL 33931		

PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions

9589 0710 5270 3142 1352 79

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee	\$	2025096
Extra Services & Fees (check box, add fee as appropriate)		Town of Fort Myers Beach
☐ Return Receipt (hardcopy)	\$	
☐ Return Receipt (electronic)	\$	
☐ Certified Mail Restricted Delivery	\$	SEP 05 2025
☐ Adult Signature Required	\$	
☐ Adult Signature Restricted Delivery	\$	
Postage	\$	
Total Postage and Fees	\$	450 HARBOR CT
BUSINESS FILINGS INCORPORATED 1200 SOUTH PINE ISLAND ROAD PLANTATION, FL 33324		

PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

MOSS MARINA
FREELAND FL HOLDINGS LLC
BERNARD G FREELAND
450 HARBOR CT
FORT MYERS BEACH, FL 33931



9590 9402 9466 5069 6075 52

2. Article Number (Transfer from service label)

9589 0710 5270 3142 1352 86

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☒ No

20250967

450 HARBOR CT

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☐ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

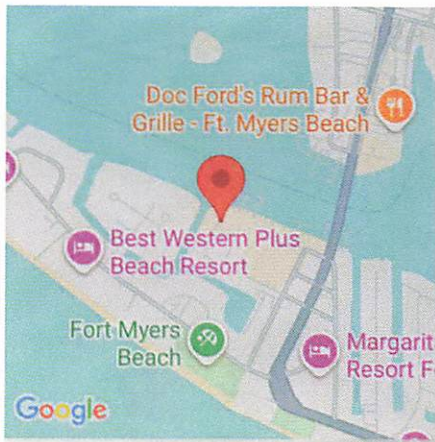
Mail Restricted Delivery

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt



Sep 4, 2025 8:26:04 AM
Fort Myers Beach



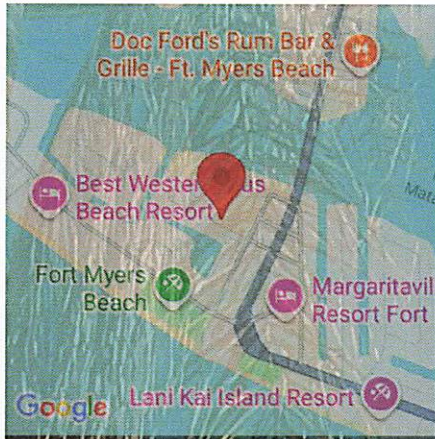
Sep 4, 2025 8:26:17 AM
Fort Myers Beach



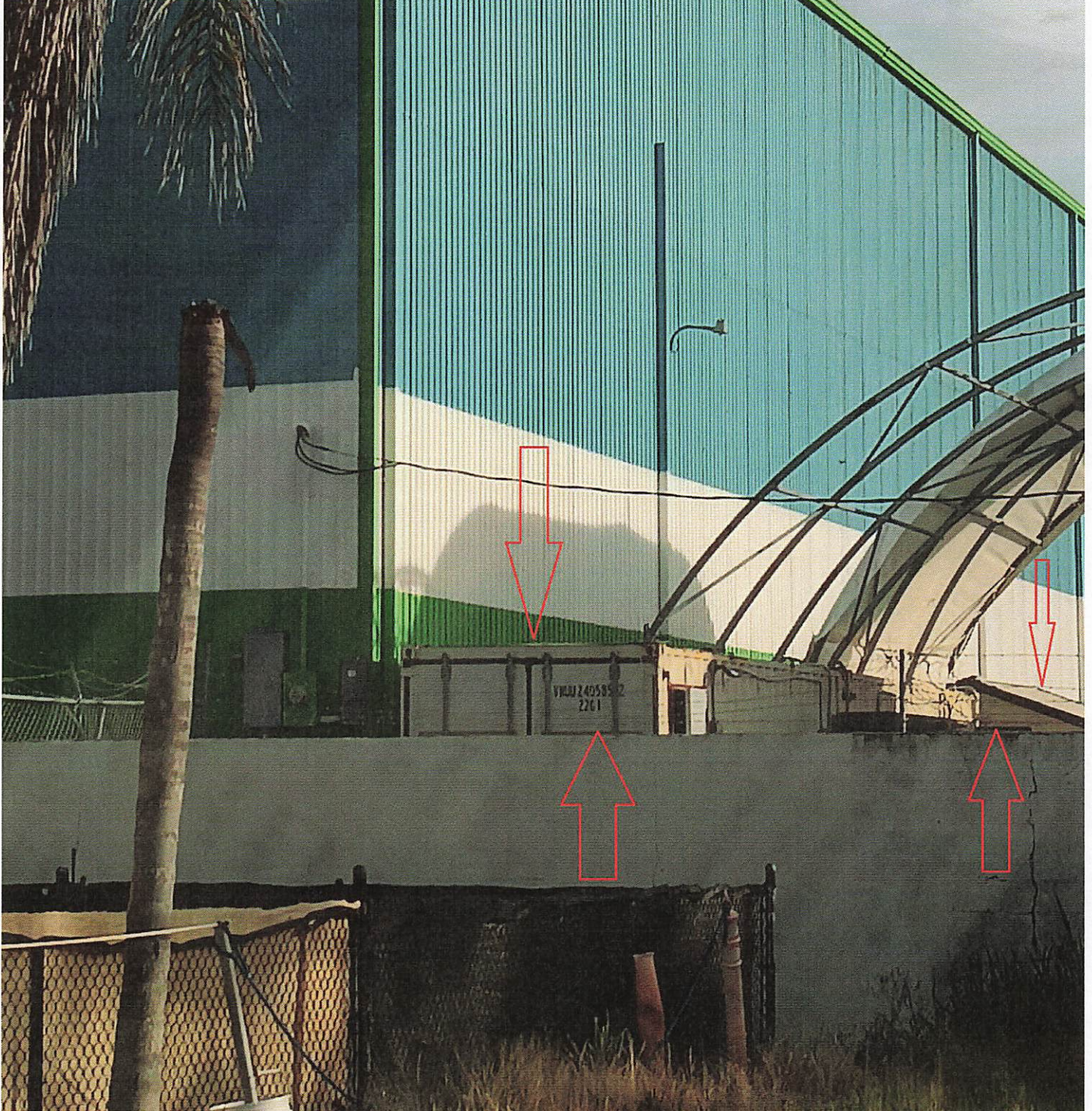
Sep 4, 2025 8:18:45 AM
Fort Myers Beach







Sep 4, 2025 8:28:21 AM
Fort Myers Beach





Town of Fort Myers Beach
NOTICE OF VIOLATION AND NOTICE OF CODE
ENFORCEMENT HEARING
6231 Estero Blvd, Fort Myers Beach, FL 33931
Phone : (239) 765-0202

Date: September 4, 2025

Case Number: 20250967

Owner: MOSS MARINA FREELAND FL HOLDINGS LLC
Mailing Address: 450 Harbor CT, Fort Myers Beach, FL 33931
Property Address: 450 Harbor CT, Fort Myers Beach, FL 33931
Certified Mail# 9589071052703142135286, 9589071052703142135262,
9589071052703142135279
Parcel: Standard First Class Mail

YOU ARE HEREBY NOTIFIED that the undersigned Code Officer alleges that on September 4, 2025 the following violation(s) of the Land Development Code of the Town of Fort Myers Beach, Florida, existed on the property above:

Code Violation: On 09/04/2025, a violation was discovered for the keeping and / or maintaining of non-compliant structure(s) on property, which are not built to current flood design codes in the Special Hazard Areas defined in Section 6-494 of the FMB Code of Ordinances, was identified as a violation of the Town's Codes.

ASCE 24-14 - A copy is available at https://www.fema.gov/sites/default/files/2020-07/asce24-14_highlights_jan2015.pdf

Sec. 6-501. - Design and construction of buildings, structures and facilities exempt from the Florida Building Code. - Pursuant to section 6-443, buildings, structures and facilities that are exempt from the Florida Building Code, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, must be designed and constructed in accordance with the flood load and flood-resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that are not walled and roofed buildings must comply with the requirements of division 10, subdivision VII.

Sec. 6-525. - General requirements for other development. - All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this article of the Florida Building Code, must:

- (1) Be located and constructed to minimize flood damage;
- (2) Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
- (3) Be constructed of flood damage-resistant materials; and
- (4) Have mechanical, plumbing and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that systems shall be protected by flood-resistant enclosures.

Staples





Sep 5, 2025 12:47:29 PM



Town of Fort Myers Beach
NOTICE OF VIOLATION AND NOTICE OF CODE
ENFORCEMENT HEARING
6231 Estero Blvd, Fort Myers Beach, FL 33931
Phone : (239) 765-0202

Date: September 4, 2025

Case Number: 20250967

Owner: MOSS MARINA FREELAND FL HOLDINGS LLC
Mailing Address: 450 Harbor CT, Fort Myers Beach, FL 33931
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- (3) Be constructed of flood damage-resistant materials; and
- (4) Have mechanical, plumbing and electrical systems above the design flood elevation or meet the requirements of ASCE 24.

Staples

Sep 5, 2025 12:46:10 PM



Town of Fort Myers Beach
NOTICE OF VIOLATION AND NOTICE OF CODE
ENFORCEMENT HEARING

6231 Estero Blvd, Fort Myers Beach, FL 33931
Phone : (239) 765-0202

Date: September 4, 2025

Case Number: 20250967

Owner: **MOSS MARINA FREELAND FL HOLDINGS LLC**

Mailing Address: 450 Harbor CT, Fort Myers Beach, FL 33931

Property Address: **450 Harbor CT**, Fort Myers Beach, FL 33931

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- (3) Be constructed of flood damage-resistant materials; and
- (4) Have mechanical, plumbing and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and



Property Data

STRAP: 24-46-23-W3-00026.0020 Folio ID: 10127269

Tax Roll Value Letter 2025

Generated on 9/5/2025 2:37 PM

Owner Of Record - Sole Owner
[Change Mailing Address]FREELAND FL HOLDINGS LLC
PO BOX 656
ANTIOCH TN 37011

Site Address

Site Address maintained by E911 Program Addressing

450 HARBOR CT
FORT MYERS BEACH FL 33931

Property Description

Do not use for legal documents!



PARL IN SE 1/4 SEC 24 TWP 46 RGE 23 DESC OR 1447 PG 1434

[View Recorded Plat at LeeClerk.org](#) - Use this link to do an Official Records search on the Lee County Clerk of Courts website, using 1447 and 1434 for the book and page numbers.

Attributes and Location Details

Total Bedrooms / Bathrooms	0
Gross Building Area (multiple buildings, see Property Details below)	32,576
1st Year Building on Tax Roll	1987
Historic Designation	No

Township	Range	Section	Block	Lot
46	23E	24		
Municipality	Latitude	Longitude		
Town of Fort Myers Beach	26.45645	-81.95562		

[View Parcel on Google Maps](#)

[Tax Map Viewer] [View Comparables]



[Pictometry Aerial Viewer]

Image of Structure

◀ Photo Date January of 2025 ▶ ☐ View other photo

Last Inspection Date: 01/31/2024

Property Values / Exemptions / TRIM Notices

Generated on 9/5/2025 2:37 PM

No existing exemptions found for this property.

TRIM Notices	Tax Year	Just	Land	Market Assessed	Capped Assessed	Exemptions	Classified Use	1
2025 / Additional Info	2025 (TRIM Value)	13,540,049	12,151,200	13,540,049	2,231,988	0	0	
2024 / Additional Info	2024 (Final Value)	2,029,080	1,446,897	2,029,080	2,029,080	0	0	
2023 / Additional Info	2023 (Final Value)	2,026,200	1,468,210	2,026,200	2,026,200	0	0	
2022 / Additional Info	2022 (Final Value)	1,930,366	1,231,776	1,930,366	1,930,366	0	0	
2021 / Additional Info	2021 (Final Value)	1,873,938	1,294,488	1,873,938	1,873,938	0	0	
2020 / Additional Info	2020 (Final Value)	1,872,271	1,250,613	1,872,271	1,872,271	0	0	
2019 / Additional Info	2019 (Final Value)	1,830,303	1,218,399	1,830,303	1,830,303	0	0	
2018 / Additional Info	2018 (Final Value)	1,715,496	1,166,802	1,715,496	1,715,496	0	0	
2017 / Additional Info	2017 (Final Value)	1,633,632	1,110,837	1,633,632	1,633,632	0	0	
2016	2016 (Final Value)	1,633,617	1,108,653	1,633,617	1,633,617	0	0	
2015	2015 (Final Value)	1,630,515	1,081,899	1,630,515	1,559,836	0	0	
2014	2014 (Final Value)	1,626,534	1,073,982	1,626,534	1,418,033	0	0	
2013	2013 (Final Value)	1,289,121	723,110	1,289,121	1,289,121	0	0	
2012	2012 (Final Value)	1,285,724	716,762	1,285,724	1,285,724	0	0	
2011	2011 (Final Value)	1,205,014	840,708	1,205,014	1,205,014	0	0	
2010	2010 (Final Value)	1,208,930	819,970	1,208,930	1,208,930	0	0	
	2009 (Final Value)	1,144,150	801,760	1,144,150	1,144,150	0	0	
	2008 (Final Value)	2,384,520	1,869,730	2,384,520	2,384,520	0	0	
	2007 (Final Value)	3,757,650	2,928,080	0	3,757,650	0	0	
	2006 (Final Value)	4,330,460	3,482,150	0	4,330,460	0	0	
	2005 (Final Value)	5,043,300	3,909,730	0	5,043,300	0	0	
	2004 (Final Value)	3,118,650	2,349,980	0	3,118,650	0	0	
	2003 (Final Value)	3,136,850	2,350,220	0	3,136,850	0	0	
	2002 (Final Value)	1,734,150	946,270	0	1,734,150	0	0	
	2001 (Final Value)	1,753,150	946,520	0	1,753,150	0	0	
	2000 (Final Value)	1,685,000	801,520	0	1,685,000	0	0	
	1999 (Final Value)	1,704,890	802,010	0	1,704,890	0	0	
	1998 (Final Value)	1,724,770	802,490	0	1,724,770	0	0	
	1997 (Final Value)	1,746,260	802,980	0	1,746,260	0	0	
	1996 (Final Value)	1,234,030	791,730	0	1,234,030	0	0	
	1995 (Final Value)	1,244,340	792,340	0	1,244,340	0	0	
	1994 (Final Value)	1,254,390	792,710	0	1,254,390	0	0	
	1993 (Final Value)	1,264,450	793,080	0	1,264,450	0	0	
	1992 (Final Value)	1,208,610	793,450	0	1,208,610	0	0	

The **Just** value is the total parcel assessment (less any considerations for the cost of sale). This is the closest value to *Fair Market Value* we produce as of January 1st of the tax year in question (**F.A.C. 12D-1.002**).

The **Land** value is the portion of the total parcel assessment attributed to the land.

The **Market Assessed** value is the total parcel assessment (less any considerations for the cost of sale) based upon the assessment standard. Most parcels are assessed based either upon the *Highest and Best Use* standard or the *Present Use* standard (**F.S. 193.011**). For *Agriculturally Classified* parcels (or parcels with only agricultural uses are considered in the assessment (**F.S. 193.461 (6) (a)**)). The difference between the *Highest and Best Use/Present Use* and the *Assessed Use* is often referred to as the *Agricultural Exemption*.
(i.e. Market Assessed = Just - Agricultural Exemption)

The **Capped Assessed** value is the *Market Assessment* after any *Save Our Homes* or *10% Assessment Limitation* cap is applied. This assessment cap is applied to all properties and limits year-to-year assessment increases to either the *Consumer Price Index* or 3%, whichever is lower for Homestead properties OR 10% for non-Homestead properties.

The **Exemptions** value is the total amount of all exemptions on the parcel.

The **Taxable** value is the *Capped Assessment* after exemptions (*Homestead, etc.*) are applied to it. This is the value that most taxing authorities use to calculate a parcel's taxes.
(i.e. Taxable = Capped Assessed - Exemptions)

Property Details (Current as of 9/4/2025)

Generated on 9/5/2025 2:37 PM

Land

Land Tracts

Use Code	Use Code Description	Number of Units	Unit of Measure
2010	Marina	78408.00	Square Feet
2012	Comm Marine Boat Units - B	13.00	Units

Land Features

Description	Year Added	Units
PAVEMENT - CONCRETE	1987	
FENCE - CHAIN LINK - 8 FOOT	1987	
WALL - CONCRETE BLOCK	1988	
SEAWALL - CONCRETE	1987	
WALL - CONCRETE BLOCK	1988	
PAVEMENT - CONCRETE - PARKING	1987	
FENCE - CHAIN LINK - 6 FOOT	1988	
DOCK - BOAT - FLOATING	2021	

Buildings

Building 1 of 2

Building Characteristics

Improvement Type	Model Type	Stories	Living Units
82 - Warehouse - Metal/Frame	6 - WAREHOUSE/INDUSTRIAL	1.0	0
Bedrooms	Bathrooms	Year Built	Effective Year
0	0.0	1987	1987

Building Subareas

Description	Heated / Under Air	Area (Sq Ft)
BAS - BASE	Y	

Building Features

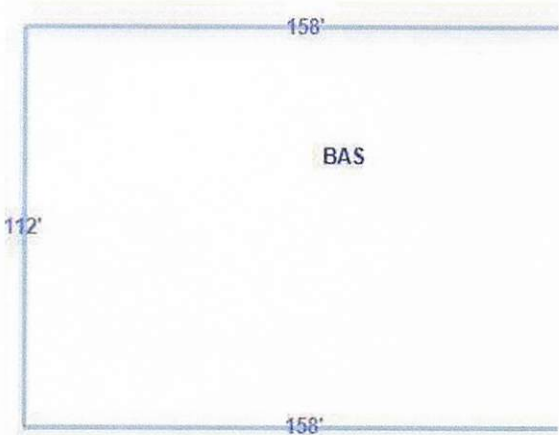
Description	Year Added	Units
OVERHEAD DOOR - LARGE 10X10 OR LARGER	1987	
SPRINKLER SYSTEM (INTERIOR)	1987	

Building Front Photo

Building Footprint



Photo Date: January of 2025



Building 2 of 2

Building Characteristics

Improvement Type	Model Type	Stories	Living Uni
82 - Warehouse - Metal/Frame	6 - WAREHOUSE/INDUSTRIAL	1.0	0
Bedrooms	Bathrooms	Year Built	Effective Year
0	0.0	1996	1996

Building Subareas

Description	Heated / Under Air	Area (Sq F)
BAS - BASE	Y	

Building Features

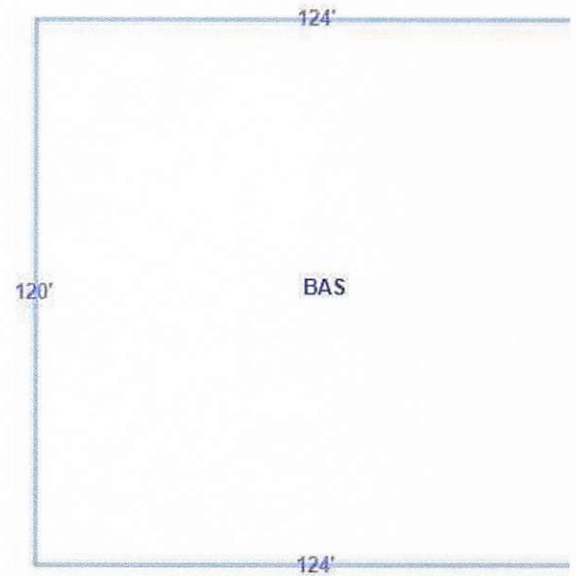
Description	Year Added	Units
OVERHEAD DOOR - LARGE 10X10 OR LARGER	1996	
SPRINKLER SYSTEM (INTERIOR)	1996	

Building Front Photo

Building Footprint



Photo Date: January of 2024



Property Details (2025 TRIM)



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Land

Land Tracts

Use Code	Use Code Description	Number of Units	Unit of Measure
2010	Marina	78408.00	Square Feet
2012	Comm Marine Boat Units - B	13.00	Units

Land Features

Description	Year Added	Unit
PAVEMENT - CONCRETE	1987	
FENCE - CHAIN LINK - 8 FOOT	1987	
WALL - CONCRETE BLOCK	1988	
SEAWALL - CONCRETE	1987	
WALL - CONCRETE BLOCK	1988	
PAVEMENT - CONCRETE - PARKING	1987	
FENCE - CHAIN LINK - 6 FOOT	1988	
DOCK - BOAT - FLOATING	2021	

Buildings

Building 1 of 2

Building Characteristics

Improvement Type	Model Type	Stories	Living Units
82 - Warehouse - Metal/Frame	6 - WAREHOUSE/INDUSTRIAL	1.0	0
Bedrooms	Bathrooms	Year Built	Effective Year
0	0.0	1987	1987

Building Subareas

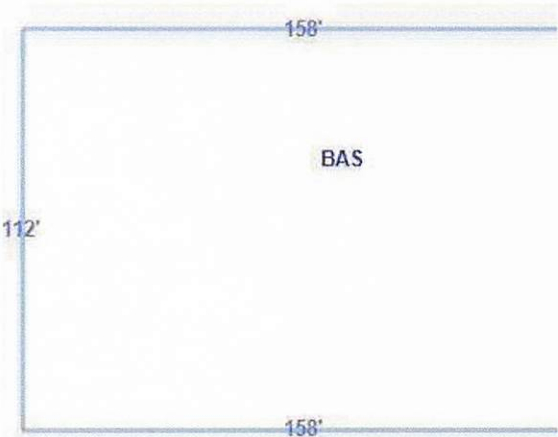
Description	Heated / Under Air	Area (Sq f
BAS - BASE	Y	
Building Features		
Description	Year Added	Units
OVERHEAD DOOR - LARGE 10X10 OR LARGER	1987	
SPRINKLER SYSTEM (INTERIOR)	1987	

Building Front Photo

Building Footprint



Photo Date: January of 2025



Building 2 of 2

Building Characteristics

Improvement Type	Model Type	Stories	Living Uni
82 - Warehouse - Metal/Frame	6 - WAREHOUSE/INDUSTRIAL	1.0	0
Bedrooms	Bathrooms	Year Built	Effective Year
0	0.0	1996	1996

Building Subareas

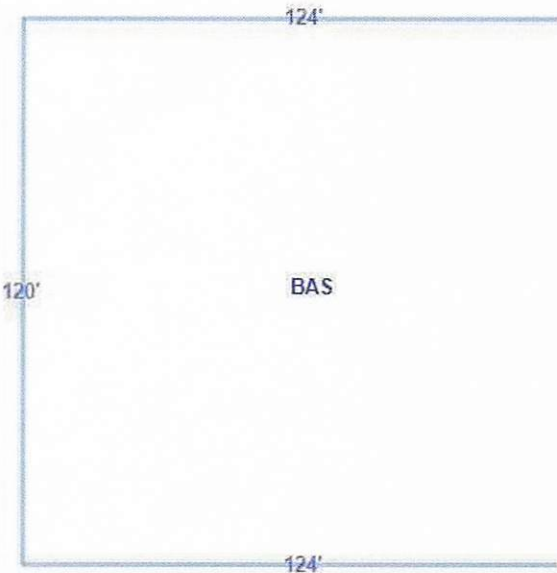
Description	Heated / Under Air	Area (Sq f
BAS - BASE	Y	
Building Features		
Description	Year Added	Units
OVERHEAD DOOR - LARGE 10X10 OR LARGER	1996	
SPRINKLER SYSTEM (INTERIOR)	1996	

Building Front Photo

Building Footprint



Photo Date: January of 2024



Taxing Authorities

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Sales / Transactions ⓘ

Generated on 9/5/2025 2:37 PM

Building / Construction Permit Data

Generated on 9/5/2025 2:37 PM

Permit Number	Permit Type	Date
233769	Electric	05/17/2023
220003	Utilities	01/13/2022
FIR18-0039	Gas	06/11/2018
ELE15-0089	Electric	03/25/2015
MEC14-0199	AC New / Change out	07/02/2014
ELE13-0177	Electric	08/16/2013
FIR13-0030	Fire	08/12/2013
DSH2002-00243	Boathouse, Dock & Shoreline	07/31/2003

9/5/25, 2:37 PM			Online Parcel Inquiry Lee County Property Appraiser		
DSH2002-00597	Boathouse, Dock & Shoreline	07/31/2003	199511582	COM - Completion Permit Issued	12/06/1995
805555	COM - Completion Permit Issued	05/04/1988	706083	Commercial	04/27/1987

IMPORTANT: THIS MAY NOT BE A COMPREHENSIVE OR TIMELY LISTING OF PERMITS ISSUED FOR THIS PROPERTY.

Note: The Lee County Property Appraiser's Office does not issue or maintain any permit information. The Building / Construction permit data displayed represents only those records this Office may find necessary to conduct Property Appraiser business. Use of this information is with the understanding in no way is this to be considered a comprehensive listing of permits for this or any other parcel.

The Date field represents the date the property appraiser received information regarding permit activity; it may or not represent the actual date of permit issuance or completion.

Full, accurate, active and valid permit information for parcels can only be obtained from the [appropriate permit issuing agency](#).

Parcel Numbering History ⓘ

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Solid Waste (Garbage) Roll Data

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Flood and Storm Information

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Flood Insurance Find my flood zone					Evacuation Zone
Community	Panel	Version	Date		
071C	0554	G	11/17/2022		A



[Department of State](#) / [Division of Corporations](#) / [Search Records](#) / [Search by Entity Name](#) /

Detail by Entity Name

Florida Limited Liability Company
FREELAND FL HOLDINGS, LLC

Filing Information

Document Number	L14000075735
FEI/EIN Number	46-5634303
Date Filed	05/09/2014
State	FL
Status	ACTIVE
Last Event	REINSTATEMENT
Event Date Filed	01/22/2021

Principal Address

5800 CROSSINGS BLVD
Antioch, TN 37013

Changed: 09/24/2021

Mailing Address

PO Box 656
Antioch, TN 37011

Changed: 04/05/2022

Registered Agent Name & Address

BUSINESS FILINGS INCORPORATED
1200 SOUTH PINE ISLAND ROAD
PLANTATION, FL 33324

Name Changed: 06/11/2021

Address Changed: 06/11/2021

Authorized Person(s) Detail

Name & Address

Title MGR

Freeland, Bernard G
5333 Hickory Hollow Parkway
Antioch, TN 37013

Annual Reports

Report Year	Filed Date
2023	01/23/2023
2024	01/29/2024
2025	04/11/2025

Document Images

04/11/2025 -- ANNUAL REPORT	View image in PDF format
01/29/2024 -- ANNUAL REPORT	View image in PDF format
01/23/2023 -- ANNUAL REPORT	View image in PDF format
04/05/2022 -- ANNUAL REPORT	View image in PDF format
06/11/2021 -- Reg. Agent Change	View image in PDF format
01/22/2021 -- REINSTATEMENT	View image in PDF format
11/27/2017 -- REINSTATEMENT	View image in PDF format
07/18/2016 -- ANNUAL REPORT	View image in PDF format
03/09/2015 -- ANNUAL REPORT	View image in PDF format
05/09/2014 -- Florida Limited Liability	View image in PDF format



Lee County Tax Collector

Noelle Branning

Account Number:
BI 00 8385 91
Alternate Key:
2100045086
Millage Code:
032

Site Address/Legal Description:
24-46-23-W3-00027.0000 450 HARBOR CT

2024 Tangible Personal Property Tax Notice

Ad Valorem Taxes for Lee County, Florida



SCAN
THIS CODE
to pay online
or visit
LeeTC.com/pay-online

Exemptions/Values

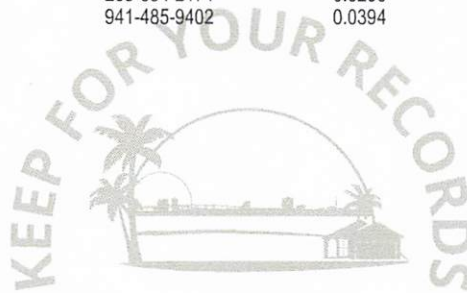
Market Value	910,287
Assessed Value	910,287
Taxable Value	910,287
Exemptions from PA's Office	25,000

★ See message below.

MOSS MARINA
FREELAND FL HOLDINGS LLC
BERNARD G FREELAND
450 HARBOR CT
FORT MYERS BEACH, FL 33931

Paid 11/20/2024 DP-00-02861362 \$14,355.45

Ad Valorem Taxes Levying Authority	Telephone	Mill Rate	Assessed	Exemption	Taxable	Amount
LEE COUNTY GENERAL REVENUE	239-533-2221	3.7623	910.287	25.000	885.287	3,330.72
PUBLIC SCHOOL - BY LOCAL BOARD	239-337-8215	2.2480	910.287	25.000	885.287	1,990.13
PUBLIC SCHOOL - BY STATE LAW	239-337-8215	3.0380	910.287	25.000	885.287	2,689.50
TOWN OF FORT MYERS BEACH	239-765-0202	0.9900	910.287	25.000	885.287	876.43
SFL WATER MGMT-DISTRICT LEVY	561-686-8800	0.0948	910.287	25.000	885.287	83.93
SFL WATER MGMT-EVERGLADE CONST	561-686-8800	0.0327	910.287	25.000	885.287	28.95
SFL WATER MGMT-OKEECHOBEE LEVY	561-686-8800	0.1026	910.287	25.000	885.287	90.83
FORT MYERS BEACH FIRE CONTROL DISTRICT	239-590-4200	2.8000	910.287	25.000	885.287	2,478.80
FORT MYERS BEACH MOSQUITO	239-247-1205	0.1123	910.287	25.000	885.287	99.42
FORT MYERS BEACH LIBRARY	239-463-9691	0.1612	910.287	25.000	885.287	142.71
LEE COUNTY HYACINTH CONTROL	239-694-2174	0.0200	910.287	25.000	885.287	17.71
WEST COAST INLAND NAVIGATION DISTRICT	941-485-9402	0.0394	910.287	25.000	885.287	34.88
PENALTY 25%						2,966.00



2024 Total Ad Valorem:

\$14,830.01

2024 Tangible Personal Property Tax Notice

PAY ONLY ONE AMOUNT

If Received By:

- ☐ Nov 30, 2024
☐
☐
☐
☐

Amount Due:

\$0.00

Phone/Email Contact: _____

For payment options and instructions, refer to the back of this notice.

Account: BI 00 8385 91

Site Address: 450 HARBOR CT

Alternate Key: 2100045086

★ If the address below is not correct, visit LeePA.org to update your address.

MOSS MARINA
FREELAND FL HOLDINGS LLC
BERNARD G FREELAND
450 HARBOR CT
FORT MYERS BEACH, FL 33931

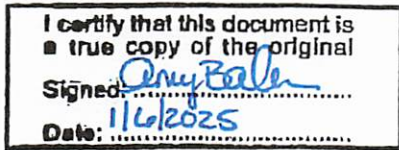
Make check payable to:
LEE COUNTY TAX COLLECTOR
PO BOX 1609
FORT MYERS, FL 33902-1609



Paid 11/20/2024 DP-00-02861362 \$14,355.45

Hearing Exhibit B

FEMA and Related Ordinances



U. S. Department of Homeland Security
Region 4
3005 Chamblee Tucker Road
Atlanta, GA 30341



FEMA

July 19, 2024

CERTIFIED MAIL RETURN RECEIPT REQUESTED

Andy Hyatt
Town Manager, Fort Myers Beach
2525 Estero Blvd
Fort Myers Beach, FL 33931

Re: National Flood Insurance Program Participation

Dear Mr. Hyatt:

I'd like to thank you and your staff for the long hours and hard work during the last two months to help correct the Town of Fort Myers Beach's compliance issues regarding the National Flood Insurance Program (NFIP). Our teams have made great progress in helping ensure Fort Myers Beach and their residents are more resilient and prepared for future storms.

Our team has completed its review of the town's compliance with the minimum floodplain management standards and everything that has been done to correct any deficiencies and violations.

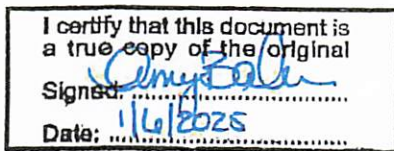
We acknowledge the work invested by your community has resulted in some improvements to meet minimum floodplain management standards. However, as the Town of Fort Myers Beach continues to recover from Hurricane Ian, FEMA finds that outstanding compliance issues remain. FEMA will not retrograde the town's class rating at this time.

Although FEMA will not retrograde the Town of Fort Myers Beach's class rating at this time, if the violations are not corrected or remedied by Nov. 18, FEMA's regulations (Title 44 Code of Federal Regulations 59.24(b) Suspension of Community Eligibility) require us to place the town on probation. This letter starts the official notification process. In addition, the town would no longer be eligible for Community Rating System participation and would be retrograded to Class 10 effective on April 1, 2025.

This letter and its attachments include FEMA's findings and our proposed next steps for the Town of Fort Myers Beach to remedy outstanding deficiencies and violations. These deficiencies and violations are described in the attached documents, specifically refer to the Status Report. To avoid probation in 121 days, the Town of Fort Myers Beach must correct deficiencies and remedy all identified violations to the maximum extent possible by Nov. 18.

You have my commitment of support as you work through these issues with your team.

www.fema.gov



A careful review of the data you provided since April shows that the implementation of the floodplain management program has several deficiencies that remain out of compliance. During the 60-day review period, the Town of Fort Myers Beach submitted additional permitting information for 105 structures in the floodplain.

Here is a summary of some of the items that the Town of Fort Myers Beach needs to remedy:

- Lack of permits for development in the Special Flood Hazard Area.
- Lack of maintaining permit records for development, new construction, or substantial improvements.
- Failure to make substantial improvement (SI) and substantial damage (SD) ("SI/SD") determinations.

FEMA staff reviewed each of the submitted permit packages and learned:

- 31% of the permit packages were complete.
- 20% need additional information.
- 2% needed a Community Assistance Visit follow up.
- 15% were ongoing in a Code Enforcement Case.
- 32% will be followed up on during a Future Compliance Engagement.

FEMA also found:

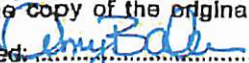
- 51 out of the 105 permit packages submitted did not include permits for structures that sustained documented damage.
- 76 of the 105 were missing itemized/detailed cost information for repair performed.
- 62 of the 105 had individual permits issued without total repair costs.

To avoid probation, the Town of Fort Myers Beach must complete the following items by close of business on Nov. 18. We encourage regular communication to share updates on your progress.

The town must remedy the following identified deficiencies:

1. Within 60 days of the date of this correspondence, September 16, 2024, develop and submit a plan that includes timelines and actions to address all identified program deficiencies and violations to the maximum extent possible.
2. Assess all floodplain development from Hurricane Ian in the Special Flood Hazard Area, ensuring that permits for all repairs, construction and development were obtained consistent with local floodplain management regulations:
 - a. From FEMA's April 8, 2024 letter:
 - i. Provide a status update for structures deemed Substantially Damaged on the list provided by the Town of Fort Myers Beach in accordance with the April 11, 2024, letter sent to the FEMA Region 4 Administrator.
 - ii. Provide evidence to support compliance action taken for the structures identified as having damage and FEMA identified as Future Compliance Engagement, Community Assistance Visit follow up, and additional information needed.

I certify that this document is
a true copy of the original

Signed: 

Date: 11/6/2025

- b. In addition to the above, provide an assessment of all floodplain development impacts from Hurricane Ian to structures in the Special Flood Hazard Area and provide a plan for remedying any identified violations.
3. Provide documentation that demonstrates your community is leveraging its code enforcement process to address new and existing code cases for all structures not confirmed as compliant. When a violation is confirmed, remedy to maximum extent possible. This includes:
 - a. In Item 2 above, structures identified during the evaluation as a Code Enforcement Case
 - b. Structures identified when assessing the Special Flood Hazard Area for all Hurricane Ian impacts to structures.
4. Put a process in place to ensure substantial damage compliance for future events.

You have my commitment to continue to support you and your team as you take the necessary compliance measures to avoid probation and possible suspension from the National Flood Insurance Program.

If you have any questions or at any time need technical assistance to address these issues, please contact FEMA Region 4 Office, Jacky Bell, Mitigation Division Director, at jacky.bell@fema.dhs.gov or 404-273-4710.

Sincerely,

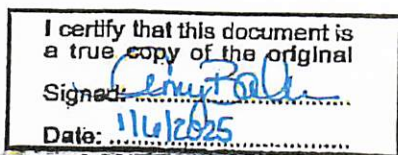


Robert D. Samaan
Regional Administrator

Attachments:

- Community Status Report
- Criteria for Avoiding Probation

cc: Kristin Schumacher, Floodplain Administrator
Jason Hunter, Region Floodplain Management & Insurance Branch Chief
Jillian Kraynak, Florida NFIP State Coordinator
Office of Sen. Marco Rubio
Office of Sen. Rick Scott
Office of Rep. Byron Donalds
Office of Rep. Greg Steube



FEMA

Town of Fort Myers Beach Post-Disaster Compliance Status Update Report

FEMA remains committed to helping communities take appropriate remediation actions to remain in good standing with the National Flood Insurance Program (NFIP) and participate in the Community Rating System (CRS).

The Town of Fort Myers Beach was granted 60 days (June 10, 2024), to submit to FEMA any new information related to the deficiencies and substantive violations detailed in FEMA's April 8, 2024 Findings Report. The April 8, 2024 Findings Report supported an initial decision by FEMA to retrograde the Town of Fort Myers Beach to a CRS class 10 community. In the Findings Report, FEMA also found program deficiencies and violations within the Town of Fort Myers Beach, which will serve as a basis for the current enforcement action and needed remediation.

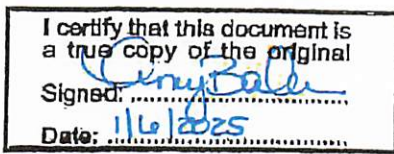
During the 60-day review period, the Town of Fort Myers Beach provided FEMA permit documentation for 105 sites. FEMA reviewed the submitted documentation, for the 105 sites as well as the Town of Fort Myers Beach's Narrative and supporting documentation.

After careful review of Town of Fort Myers Beach's submittal, FEMA finds that program deficiencies and substantive violations remain. Unfortunately, due to the deficiencies, the Town of Fort Myers Beach is being notified that they have until November 18, 2024 to address these deficiencies, or the Town will be placed on probation from the NFIP:

LIST OF PROGRAM DEFICIENCIES

Program Deficiencies are a defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of floodplain management regulations of the standards in 44 CFR 60.3; 60.4; 60.6; and NFIP Community Compliance Program Guidance, P-1022 (July 2016) in section 3.2.

- Failure of the community's "commitment to recognize and duly evaluate flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards in all official actions in the areas having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards and to take such other official action reasonably necessary to carry out the objectives of the program;" 44 CFR 59.22(8) and LDC CH 6, Art IV, Div 1, Sec 6-403(8).
- Failure to require permits for all proposed construction and development in the SFHA. 44 CFR 60.3(b)(1); 44 CFR 60.3(c)(1); 44 CFR 60.3(e)(1); FBC R101.2.1; FBC EB701.3; FBC 105.1; LDC CH 6, Art IV, Div 3, Sec 6-427; and LDC CH 6, Art IV, Div 6, Sec 6-461.
- Failure to maintain permit records for development, new construction, or substantial improvements in the SFHA. 44 CFR 59.22(a)(9)(iii); 44 CFR 60.3(b)(5)(iii); and 44 CFR 60.3(e)(2)(ii).
- Failure to make substantial improvement (SI) and substantial damage (SD) ("SI/SD") determinations and calculations for all proposed construction and development in the SFHA. 44 CFR 60.3(b)(1); 44 CFR 60.3(c)(1); 44 CFR 60.3(e)(1); LDC CH 6, Art IV, Div 3, Sec 6.428(1); and FEMA Substantial Improvement / Substantial Damage Desk Reference, P-758 (May 2010) ("SI/SD Desk Reference") in section 5.2.



- ✓ Failure to maintain SI/SD determination records for all proposed construction and development in the SFHA. 44 CFR 59.22(a)(9)(iii); 44 CFR 60.3(b)(5)(iii); 44 CFR 60.3(e)(2)(ii); and SI/SD Desk Reference in sections 4.2 and 7.7.
- ✓ Failure to keep records of permits, certifications, and variance actions. 44 CFR 59.22(a)(9)(iii).
- ✓ Failure to establish SI/SD procedures for administering and documenting determinations of SI/SD. LDC CH6, Art IV, Div 3, Sec 6.428(1) and FEMA Substantial Improvement / Substantial Damage Desk Reference, P-758 (May 2010) ("SI/SD Desk Reference") in sections 4.1, 4.3, & 7.1.
- ✓ Failure in permitting system, which allowed the use of "temporary" non-compliant structures (including shipping container and trailers/food trucks). LDC CH 6, Art IV, Div, 4, Sec 6.443 (3)&(4), LDC CH 6, Art IV, Div 6, and LDC CH 6, Art IV, Div 6, Sec 6.462, Sec 6.463, and LDC CH 6, Art IV Div 10, Sec 6-501.

1. Program deficiencies

Serious program deficiencies in a community's administrative and enforcement process and procedures are those that have resulted or could result in substantive violations that increase potential flood damages or stages in the community. The following deficiencies represent gaps in the Town's administrative process that restrict the ability to meet the minimum standards for participation.

Permitting of non-compliant structures/shipping containers/

Inconsistent Market Value	Missing Repair Permits (Known Damage (IA/Insurance))	Missing Detailed Cost Info	Low & Inadequate Labor Costs	Permits Issued Without Total Repair Costs	Failed To Capture Complete Scope of Work	After the Fact Permits	After the Fact Notice of Violation
1	51	76	8	62	65	16	25

2. List of properties determined to be substantially damaged:

The Town of Fort Myers Beach has submitted to FEMA a list of properties that Town of Fort Myers Beach deemed substantially damaged since the disaster; there were 356 structures listed. What actions has the Town taken or plan to take to follow-up on those structures? Please provide FEMA with a status of each structure to indicate how substantial damage is being addressed.

3. Non-compliant development

- a. Non-compliant structures (containers) and temporary structures have been placed in the Coastal High Hazard Area (VE zone and coastal A zone). Please provide a plan to remove the structures or bring the non-compliant structures or non-compliant additions into compliance; and confirmation that the town has stopped issuing permits for this type of non-compliant development.

b.

I certify that this document is
a true copy of the original
Signed: *Cheryl Baker*
Date: 11/6/2023



4. Data Dictionary (revised) – “Status” Column Meanings:

Additional Information Needed – Permit package needs additional information to be considered complete.

CAV Follow-Up – Not a Hurricane Ian issue but found a need for additional information during the next compliance follow-up with the community.

Code Enforcement Case – Community is currently processing as a code enforcement case and FEMA will accept and review case updates, follow-up permit information, and/or enforcement actions occurring prior to June 10, 2024. Actions occurring beyond that time will require future compliance engagement.

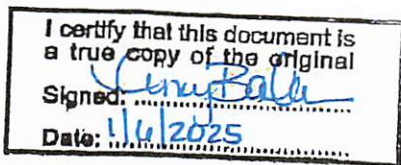
Complete – FEMA needs no further information regarding the specific address.

Future Compliance Engagement – Ian related activity. FEMA will follow-up on this site during the next compliance follow-up with the community.

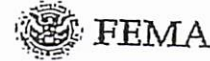
5. Documentation on the Finding Report and Site list:

Attached to this document is a list of structures within the SFHA with violations, including the type of violation, status, and needed documentation.

Final Status (as of June 28, 2024)	Count
Additional Information Needed	21
CAV Follow-Up	2
Code Enforcement Case	16
Complete	32
Future Compliance Engagement	34
Grand Total	105



U.S. Department of Homeland Security
Washington, DC 20528



National Flood Insurance Program Privacy Act Notice

RE: Town of Fort Myers Beach, FL, National Flood Insurance Program Data from the Federal Emergency Management Agency (FEMA)

The Town of Fort Myers Beach, FL is receiving data from the Federal Emergency Management Agency's that is maintained in support of the National Flood Insurance Program (NFIP). Specifically, the Town of Fort Myers Beach, FL is receiving property addresses identified by FEMA as possible violations to the local floodplain management laws and regulations. The community shall use the data to verify, monitor, and resolve the possible violation. As an NFIP participating community, this information will assist the community to ensure compliance with the NFIP and maintain the availability of flood insurance. FEMA will send the information to you securely via email on a password-protected spreadsheet or pdf.

FEMA discloses this to you pursuant to the "routine use" provision of the Privacy Act of 1974, 5 U.S.C. § 552a(b)(3), specifically under Routine Uses G, I, M, N, O, R and T of the System of Records Notice (SORN), DHS/FEMA-003 - National Flood Insurance Program Files 79 FR 28747 (May 19, 2014). The SORN may be electronically viewed at <https://www.gpo.gov/fdsys/pkg/FR-2014-05-19/html/2014-11386.htm>.

The Town of Fort Myers Beach, FL does not have permission to release the provided information to third parties, including third party contractors and will only use the data for the stated purpose. Unauthorized disclosure of FEMA data will result in an immediate denial of access to the FEMA data. Pursuant to the Privacy Act, 5 U.S.C. § 552a(e)(10), please destroy or return said personally identifiable information (PII) to FEMA once you no longer have use for it. PII is information that can be used to identify, by itself, or in combination, individuals by direct or indirect means.

In the event of a privacy incident resulting from this sharing of FEMA PII, Town of Fort Myers Beach, FL shall immediately, but in no event later than twenty-four (24) hours from suspicion, discovery or notification of the suspected or confirmed privacy incident, notify the FEMA Privacy Officer at (202) 212-5100 or FEMA-Privacy@fema.dhs.gov. FEMA will investigate the incident pursuant to DHS standard procedures and will consult the Town of Fort Myers Beach, FL to diagnose, mitigate and manage the privacy incident. The Town of Fort Myers Beach, FL will be responsible for carrying out all necessary measures to remedy the effects of the privacy incident.

By accepting the FEMA data, the Town of Fort Myers Beach, FL agrees that it shall bear all costs, losses and damages to the extent resulting from the City's breach of FEMA data. The Town of Fort Myers Beach, FL further agrees to release, defend, indemnify, and hold FEMA harmless for claims, losses, penalties and damages, and reasonable attorneys' fees and costs to the extent arising out of the Town of Fort Myers Beach, FL or its contractor's, negligence, unauthorized use or disclosure of FEMA PII and/or the Town of Fort Myers Beach, FL, or its contractor's, breach of its obligations under this sharing.

By accepting, receiving, downloading, or otherwise obtaining the routine use information or data discussed in this document, Town of Fort Myers Beach, FL understands, agrees, and accepts the terms of the use of the data as outlined in this document.

I certify that this document is
a true copy of the original

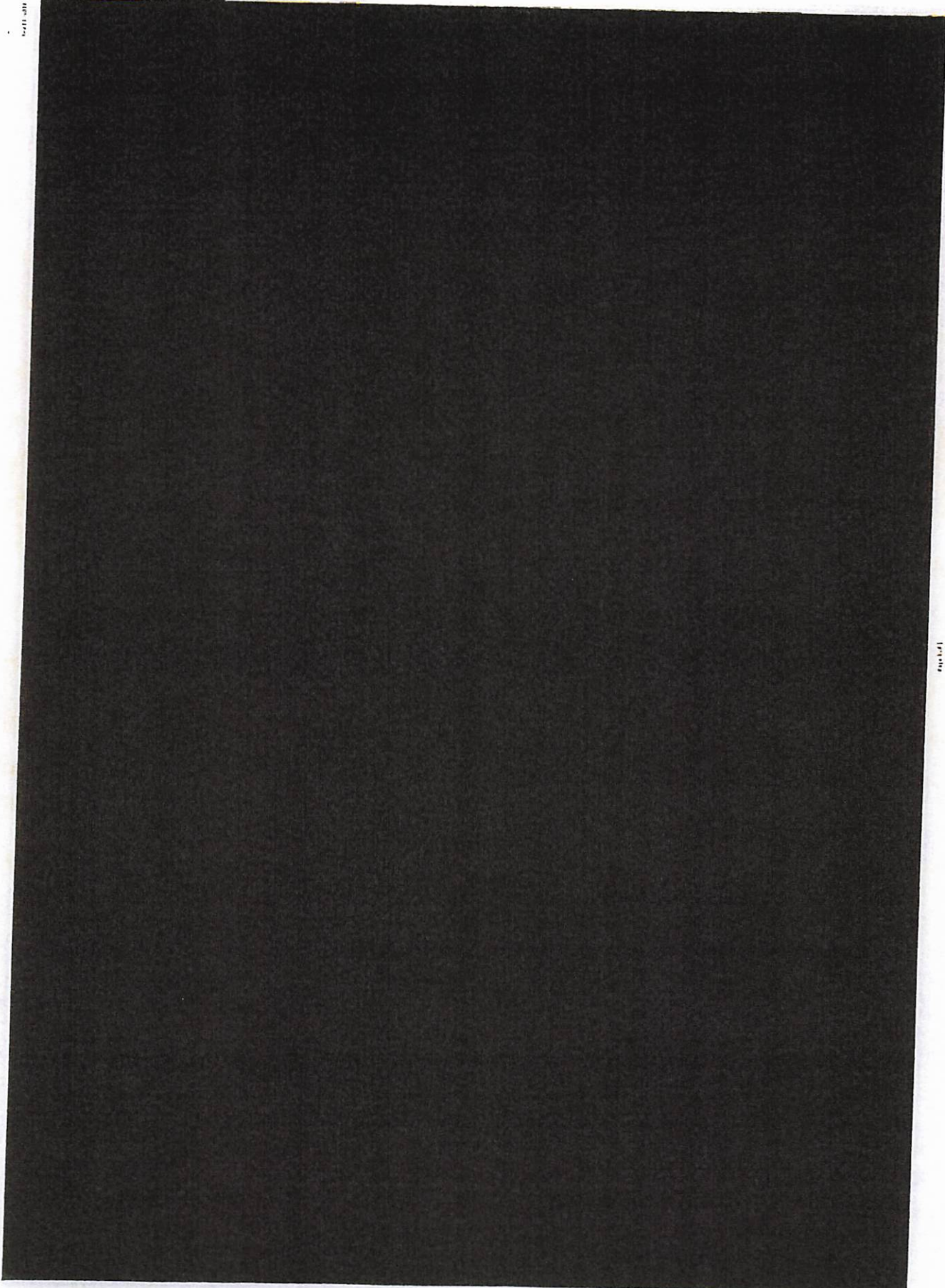
Signed: Crystal

Date: 11/6/2025

I certify that this document is
a true copy of the original

Signed: Cindy Baker

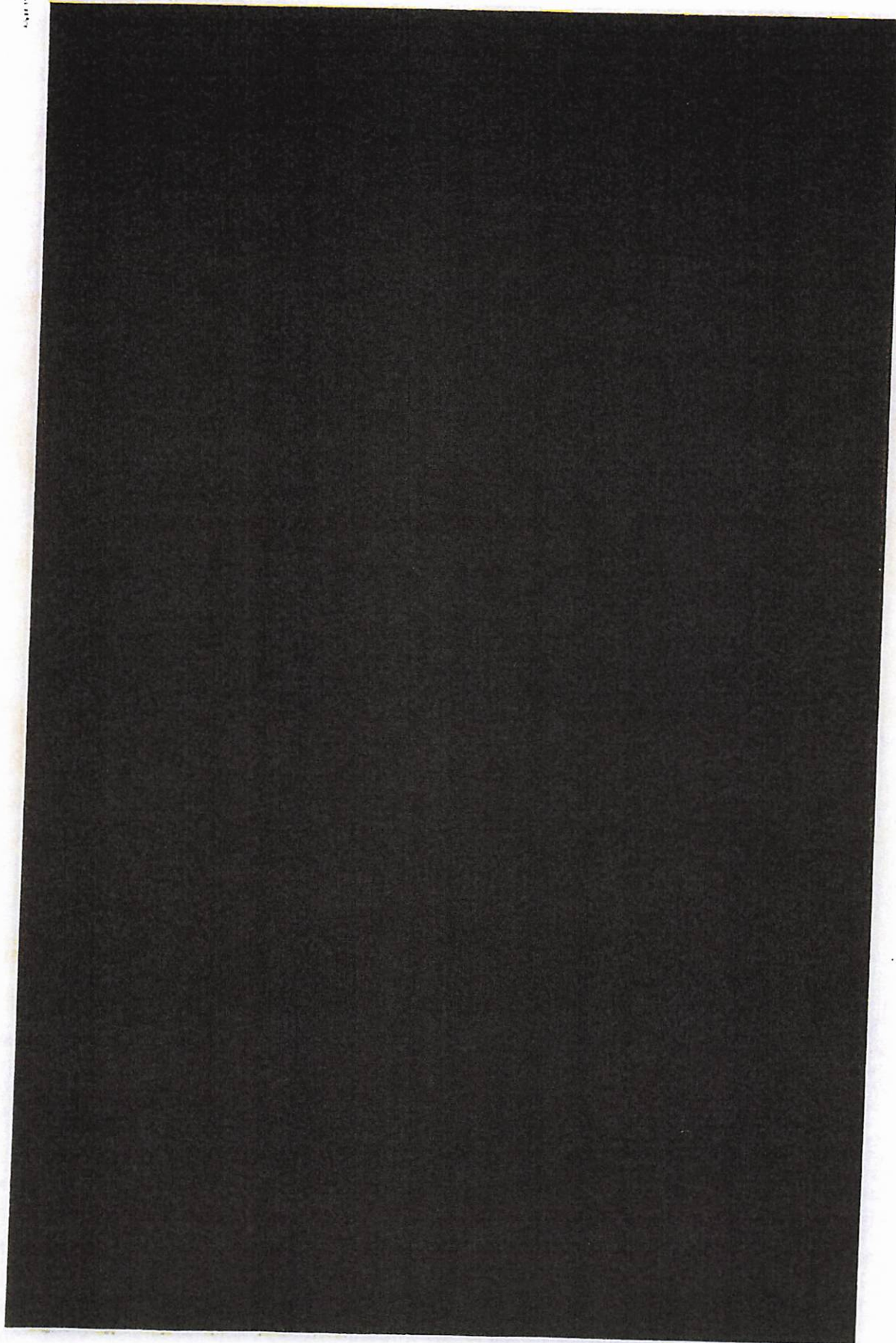
Date: 11/6/2025



I certify that this document is
a true copy of the original

Signed: Cebal

Date: 11/6/2025





I certify that this document is
a true copy of the original
Signed: Amr Bal
Date: 11/6/2024

FMBgov.com

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

VIA CERTIFIED U.S. MAIL AND ELECTRONIC MAIL

November 1, 2024

Federal Emergency Management Agency (FEMA)
U.S Department of Homeland Security
Region 4
3005 Chamblee Tucker Road
Atlanta, Georgia 30341

Attn: Robert D. Samaan
Regional Administrator
FEMA Region IV

RE: Removal of Shipping Containers and Temporary Structures
Town of Fort Myers Beach Post-Disaster Compliance Report

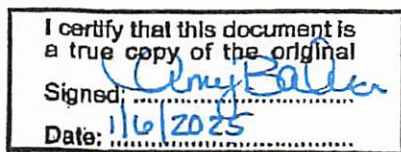
Dear Mr. Samaan,

The Town Council of the Town of Fort Myers Beach requested that we send this letter to you regarding the non-compliant structures (containers and temporary structures) in the Coastal High Hazard Area (VE zone and coastal A zone) referenced on page 2 of the Town of Fort Myers Beach Post-Disaster Compliance Status Update Report, dated July 19, 2024 ("Compliance Report"). The Compliance Report requires that the Town "provide a plan to remove the structures or bring the non-compliant structures or non-compliant additions into compliance" by November 18, 2024. The Town has been and continues to work diligently toward satisfying this requirement.

The most recent storms, Hurricanes Helene and Milton, have facilitated the removal of many of these containers and temporary structures. In fact, the recent removal of shipping containers and temporary structures as the impacts of these hurricanes threatened the Town, provided information regarding the ability to quickly disassemble

FORT MYERS BEACH ESTERO ISLAND

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and move shipping containers and temporary structures that was previously not available. For this reason, the Town Council gave direction to provide this information to you by letter.

More specifically, the owners of La Ola Surfside Restaurant, who use a 9'x 16' shipping container for a bar, were able to create a video demonstrating how quickly its shipping container could be disassembled and removed from its location on 1035 Estero Boulevard. The following is a link to the video, which has been widely circulated throughout the Fort Myers Beach Community.

https://drive.google.com/file/d/1vCBIleawpTJkXB1x877OIRInmTin2M8k9/view?usp=sharing_cil&ts=67237f46

La Ola Surfside Restaurant, as well as other businesses that temporarily operate out of shipping containers or other temporary structure, are important to the Fort Myers Beach community's recovery efforts immediately after these storms and since Hurricane Ian by providing a means to fulfill a basic human need: food.

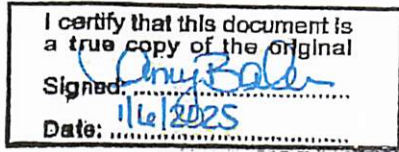
Moreover, as you are aware, the economy of a beach community such as Fort Myers Beach, is highly dependent on tourists, who visit the beach and support local businesses providing food service. In 2023-2024, the Town was awarded over \$1.5 million in tourist development dollars from the Lee County Tourist Development Board. These tourist dollars significantly assisted the Town with its recovery efforts post-Hurricane Ian and the delivery of municipal services to its residents.

In addition to tourists, the Town's economy is also highly dependent on its seasonal residents, who visit the Town from the fall through the end of spring each calendar year. Food service and other local businesses rely on the Town's seasonal residents as well as tourists to maintain operation during the winter season.

In view of the significant hardship on the operations of these businesses and the overall adverse economic impact on the Town, the Town is requesting your consideration to allow shipping containers and temporary structures, which are able to demonstrate that they can disassemble in a short period of time as evidenced in the La Ola Surfside Restaurant's video, to remain in place until June 1, 2025. An extension to June 1, 2025, would allow these local businesses to operate without interruption until the beginning of the next hurricane season.

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We appreciate your consideration of this request and look forward to discussing a limited extension of the November 18, 2024 deadline only for the removal of shipping containers and temporary structures, which can demonstrate the ability to quickly evacuate when a Hurricane Watch or Warning is issued to June 1, 2025. While this request is considered, the Town intends to continue its efforts achieve compliance with the November 18, 2024 deadline and removal of non-compliant shipping containers and temporary structures, such as La Ola Surfside Restaurant. Please do not hesitate to contact Frankie Kropacek, Operations & Compliance Director by phone at 239-955-3612 or by e-mail at fkropacek@fmbgov.com with any questions you may have. The Town looks forward to receiving a response to you regarding this request.

Sincerely,

Dan Allers, Mayor

Jim Atterholt, Vice Mayor

John R. King, Councilor

Karen Woodson, Councilor

Scott Safford, Councilor

Cc: Andrew Hyatt, Town Manager
Becky Vose, Town Attorney
Nancy Stuparich, Town Attorney
Amy Baker, Town Clerk
Frankie Kropacek, Operations & Compliance Director

FORT MYERS BEACH ESTERO ISLAND

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I certify that this document is
a true copy of the original

Signed:

Date:

Cathy Baker
11/6/2025

I certify that this document is
a true copy of the original
Signed: [Signature]
Date: 11/6/2025

U. S. Department of Homeland Security
Region 4
3005 Chamblee Tucker Road
Atlanta, GA 30341



FEMA

November 12, 2024

The Honorable Dan Allers
Mayor, Town of Fort Myers Beach
2731 Oak Street
Fort Myers Beach, FL 33931

Re: Removal of Shipping Containers and Temporary Structures Town of Fort Myers Beach Post
Disaster Compliance Report

Dear Mayor Allers:

I received the letter from the Fort Myers Beach Town Council requesting an extension for the removal of non-compliant shipping containers and temporary structures located in the Special Flood Hazard Area and Coastal High Hazard Area.

While I understand and appreciate the importance of these structures to the Town's economy and recovery, the Code of Federal Regulations that governs the National Flood Insurance Program defines the development in question as structures – not recreational vehicles. Because of this, the fact that the structures can be removed pre-event is not relevant as those conditions apply to recreational vehicles only. There are no regulations for temporary structures and occupancy which means all development in the Special Flood Hazard Area must meet the NFIP minimum standards and local floodplain management regulations. FEMA is not able to issue exemptions to the NFIP minimum standards nor extend the existence of non-compliant development.

The purpose of these regulations is to protect lives and property in the Special Flood Hazard Area. These non-compliant structures are in the most 'at risk' flood area, VE zone, also known as the Coastal High Hazard Area, which received a 14-foot storm surge during Hurricane Ian. Allowing these structures to remain in place presents a hazard to residents and businesses in the event of another storm as demonstrated by Hurricanes Helene and Milton. For these reasons I am unable to grant the Town's request to allow the structures in question to remain in place beyond the current deadline.

I certify that this document is a true copy of the original
Signed: <u>Jacky S. Bell</u>
Date: <u>11/6/2025</u>

You have my commitment to continue to support you and your team as you manage Hurricane Ian recovery and as you work to take the necessary compliance measures to avoid probation and possible suspension from the NFIP. If you have any questions or at any time need technical assistance to address these issues, please contact FEMA Region 4 Office, Jason Hunter, Floodplain Management and Insurance Branch chief, at Jason.hunter@fema.dhs.gov or 770-220-5471.

Sincerely,

Jacky S. Bell
Mitigation Division Director

cc: Kevin Guthrie, Executive Director, Florida Division of Emergency Management



FEMA

November 21, 2024

Andy Hyatt, Manager
Town of Fort Myers Beach
2731 Oak Street
Fort Myers Beach, FL 33931

Re: National Flood Insurance Program Participation

Dear Mr. Hyatt:

Once again, I'd like to thank you and your staff for the long hours and hard work during the last several months to correct the Town of Fort Myers Beach's issues regarding the National Flood Insurance Program (NFIP). Our teams have made great progress in helping ensure the city and their residents are more resilient and prepared for future storms.

On July 19, 2024, the Town received a letter from this office indicating the potential of being placed in probationary status with the NFIP if certain conditions were not met. These conditions consisted of five action items to be completed by November 18, 2024.

These action items were:

1. Develop and submit a plan that includes actions and timelines to address all identified program deficiencies and violations to the maximum extent possible.
2. Assess all floodplain development from Hurricane Ian in the Special Flood Hazard Area, ensuring that permits for all repairs, construction and development were obtained consistent with local floodplain management regulations.
3. Provide documentation that demonstrates your community is leveraging its code enforcement process to address new and existing code cases for all structures not confirmed as compliant.
4. Put a process in place to ensure substantial damage compliance for future events.
5. Remove noncompliant structures that were incorrectly permitted and should not have been placed in the Special Flood Hazard Area.

We appreciate that the Town of Fort Myers Beach accomplished the first and fourth action items by submitting a plan to address deficiencies and establishing a process to ensure substantial damage compliance for future events.

However, our teams have identified additional work that needs to occur for items 2, 3 and 5.

The crosswalk assessment tool created has not been completed by town officials which prevents both items 2 and 3 from being completed. For the 5th item, the town also did not remove non-compliant structures that were incorrectly permitted and should not have been placed in the Special Flood Hazard Area.

We acknowledge the work invested by you and your team has resulted in some improvements to meet minimum floodplain management standards. However, because of the outstanding compliance issues remaining, **the Town will be placed on probation with the National Flood Insurance Program effective November 18, 2024.**

During this probationary period, flood insurance coverage will remain available within the Town of Fort Myers Beach; however, a \$50 surcharge will be added to the premium of each new and renewed flood insurance policy sold within the community. Probation will remain in effect until all remaining program deficiencies and violations have been corrected to the maximum extent possible. Effective April 1, 2025, the town will be retrograded to a Class 10 in the Community Ratings System and policy premium discounts will not be applied to new or renewing policies. The Town is not eligible to reapply to the Community Rating System for a higher-class rating until the Town's probationary period is concluded, the Town is in full compliance with the minimum requirements of the National Flood Insurance Program, and at least two years has passed since the Town was placed in probationary status.

I am committed and I've instructed my staff that we will continue to provide technical assistance to Fort Myers Beach to meet the required program standards and potentially end probation as soon as practicable.

If you have any questions or at any time need technical assistance to address these issues, please contact FEMA Region 4 Office, Jacky Bell, Mitigation Division Director, at jacky.bell@fema.dhs.gov or 404-273-4710.

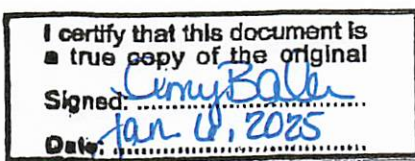
Sincerely,



Robert D. Samaan
Regional Administrator

cc:

Jason Hunter, Region Floodplain Management & Insurance Branch Chief
Jillian Kraynak, Florida NFIP State Coordinator



RESOLUTION NUMBER 24-296

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA ADOPTING A RESOLUTION TO REVOKE AND RESCIND EMERGENCY TEMPORARY PLACEMENT PERMITS AS PROVIDED AND AUTHORIZED IN SECTION 2 OF ORDINANCE 24-4 OF THE TOWN OF FORT MYERS BEACH, WHICH CLARIFIED ORDINANCE 23-05 RELATED TO TEMPORARY PLACEMENT PERMITS, IN FURTHERANCE AND IN SATISFACTION OF DIRECTION CONTAINED IN A LETTER DATED NOVEMBER 21, 2024 FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY ("FEMA") MANDATING REMOVAL OF NONCOMPLIANT STRUCTURES THAT WERE INCORRECTLY PERMITTED IN THE SPECIAL FLOOD HAZARD AREA, IN ORDER TO COMPLY WITH MINIMUM FLOODPLAIN STANDARDS AND THE REQUIREMENTS OF THE NATIONAL FLOOD INSURANCE PROGRAM; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article VIII, Section 2 of the State Constitution and Chapter 166 of the 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 services, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter empowers the Town Council to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, on September 28, 2022, Hurricane Ian made landfall north of the Town causing historical property damage and loss of life; and

WHEREAS, the Town Council recognized that recovery from a devastating natural disaster such as Hurricane Ian, created an immediate need for temporary housing, governmental services, and commercial uses for the Town's residents and adopted Ordinance 23-05 on May 15, 2023 to provide a temporary relief and the placement of certain structures in the Special Flood Hazard Area; and

WHEREAS, on May 6, 2024 the Town Council adopted Ordinance 24-04 amending and restating Ordinance 23-05 to clarify its intent at the time of adoption and to continue to provide temporary assistance to residents and to aid in the Town's redevelopment efforts by the emergency temporary placement of structures governmental, residential (manufactured homes, mobile homes, motor homes, recreational vehicles, or other temporary residential dwellings) or moveable commercial use; and

WHEREAS, both ordinances provided that permits issued under either Ordinance would be issued in increments of 6 months and would not exceed 18 months without demonstration of a hardship to the Town Manager; and

WHEREAS, Section 2 of Ordinance 24-04 further clarified that the Town Council intended permitted uses to be temporary in nature, and thereby subject to revocation and rescission at a future date under certain circumstances. More specifically, Paragraph 2 of Ordinance 24-04 identified several circumstances in which these temporary permitted uses required removal:

Unless otherwise provided in this Ordinance or in a Resolution that is adopted hereinafter 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 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. (Emphasis added).

WHEREAS, Section 2 of Ordinance 24-04(xi) also provided that the issued permit could be revoked for "noncompliance with applicable federal law/regulation, state law and town code"; and

WHEREAS, the number of outstanding temporary permits approved by the Town has decreased as a result of additional hurricanes impacting the Town subsequent to Hurricane Ian, the permitted rebuilding of destroyed properties; and the voluntary removal of the temporary permitted uses; and

WHEREAS, on July 19, 2024 and September 3, 2024, the Town was notified by the Federal Emergency Management Administration ("FEMA") that the Town would be placed on permanent probation from participation in the National Flood Insurance Program if it allowed structures needed for these temporary uses to continue subsequent to November 18, 2024 in the Special Flood Hazard Area; and

WHEREAS, Section 6-494 of the Town of Fort Myers Beach Land Development Code defines the Special Flood Hazard Area as "[a]n area in the floodplain subject to a one- percent or greater chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V. [Also defined in FBC, B Section 202.]", which in effect encompasses the entirety of the Town; and

WHEREAS, despite efforts by the Town Council to extend the November 18, 2024 FEMA deadline, the Town was notified by letter on November 21, 2024, that the Town was placed on probation with the National Flood Insurance Program effective November 18, 2024 in part due to its failure to "[r]emove noncompliant structures that were incorrectly permitted and should not have been placed in the Special Flood Hazard Area"; and

WHEREAS, in order to comply with minimum floodplain standards and the requirements of the National Flood Insurance Program, the Town must now revoke and rescind emergency temporary placement permits which allow noncompliant structures in the Special Flood Hazard Area; and

WHEREAS, the definition of a "structure" for floodplain management purposes pursuant to 44 CFR Part 59.1 includes "any walled and roofed building, manufactured home or travel trailer without wheels," and

WHEREAS, the definition of a "manufactured home" for floodplain management purposes pursuant to 44 CFR 59.1 is "a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle"; and

WHEREAS, adoption of this Resolution is in the best interest of the residents of the Town as a step towards removal of its probationary status in the National Flood Insurance Program and compliance with its floodplain regulations.

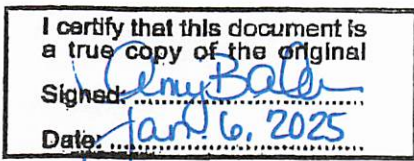
NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

Section 1. The foregoing "Whereas" clauses are ratified and confirmed as being true and correct, are the legislative and administrative findings of the Town Council and are made a specific part of this Resolution.

Section 2. All emergency temporary placement permits for "noncompliant structures that were incorrectly permitted and should not have been placed in the Special Flood Hazard Area" are hereby revoked and rescinded.

Section 3. The Town Manager is directed and authorized to immediately take the following actions to implement this Resolution:

1. Provide formal Notice to holders of any emergency temporary placement permit by certified mail, posting on the property and any other known method for notification that:
 - a) the permit is revoked and rescinded as of December 16, 2024; and
 - b) the permit holder may appeal this revocation action pursuant to Section 34-86 of the Code of Ordinances as stated in Section 4 of Ordinance 24-04, or by any other lawful means; and
 - c) the contact information for a member of the Town staff, who can answer questions and provide more information.



The Notice shall also include a copy of this Resolution and FEMA's letter of November 21, 2204

2. Initiate or continue any needed code enforcement action against permit holders who fail to immediately begin removal of noncompliant structures.

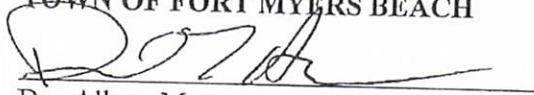
Section 4. This Resolution shall take effect immediately upon its adoption by the Town Council of the Town of Fort Myers Beach.

THE FOREGOING RESOLUTION was adopted by the Town Council upon motion by Mayor Allers and seconded by Vice Mayor Atterholt, and upon being put to a vote, the result was as follows:

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

APPROVED AND ADOPTED this 16th day of December 2024, by the Town Council of the Town of Fort Myers Beach, Florida.

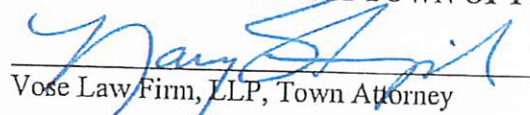
TOWN OF FORT MYERS BEACH


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, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 16th day of December 2024.



FEMA

July 24, 2025

The Honorable Will McKannay
Town Manager, Town of Fort Myers Beach
6231 Estero Blvd
Fort Myers Beach, FL 33931

Reference: National Flood Insurance Program (NFIP) Community Assistance Visit (CAV)
Report of Findings

Dear Mr. McKannay:

The purpose of this letter is to provide you with our findings from the CAV that the Federal Emergency Management Agency (FEMA) conducted from Tuesday, July 15, 2025, to Thursday, July 17, 2025. Thank you for the courtesy extended to Tamara Hansen, Pier Janrhett and Yuzzeff Henderson of FEMA Region 4 and Scott Gaines, of the Florida Department of Emergency Management (FDEM).

An introductory meeting was held by FEMA Specialists Tamara Hansen, Pier Janrhett, Yuzzeff Henderson Melendez, Scott Gaines with FDEM, yourself and members of the Town of Fort Myers Beach staff including Thomas Yozzo, Tracie Kohler, Kelly Defedericis, Frankie Kropacek, Georgina Cid, Shanette Thomas and Traci Raski. FEMA Region 4 Staff, Jacky Bell and Jason Hunter, Mr. Michael Burchette (FDEM) attended virtually. As stated during the meeting, we are very appreciative of the Town's efforts to prepare for the CAV and extended attendance of your staff for the duration of the CAV.

The purpose of this visit was to determine if the Town of Fort Myers Beach's floodplain management program is compliant with the minimum requirements of the National Flood Insurance Program. During this visit, outstanding sites identified in the Community Rating System (CRS) Retrograde appeal process in April 2024, were discussed. These sites were originally identified during field tours conducted in October and November 2023, following technical assistance visits after Hurricane Ian. During the permit reviews conducted as part of the CRS Retrograde appeal process, FEMA personnel identified various actions that were in violation of the Town's floodplain management program resulting in the community's probation from the National Flood Insurance Program. Subsequently, the Town was retrograded in CRS, effective April 1, 2025.

On April 28, 2025, the Town was notified that the requirement to be removed from probation under the NFIP had been met, effective November 18, 2025.

During the CAV, the Town of Fort Myers Beach's floodplain management program and the floodplain development permit process were reviewed and discussed. Additionally, a field tour was conducted to capture potential violations in the floodplain.

We have reviewed the Town's floodplain management regulations in Ordinance 24-03 and found that it meets the minimum requirement of the National Flood Insurance Program. We didn't find language adopting Limit of Moderate Wave Action requirements beyond the Florida Building Code, nor the state's accessory language which is based upon FEMA Policy #104-008-03. Please contact Scott Gaines at scott.gaines@em.myflorida.com if the Town is interested in adopting language related to either of these topics.

During the visit, the following programmatic deficiencies were identified and must be resolved:

1. Substantial Damage/Substantial Improvement Determination Process

○ *Concerns:*

- During the permit documentation review, evidence showed that permits were issued prior to a Substantial Damage/Substantial Improvement determination having been made by the Town, resulting in non-compliant structures that were potentially Substantial Damaged/Substantial Improved and repaired without being brought into compliance with the Town's floodplain management regulations.
- Additionally, the permitting staff who reviewed and issued permits didn't have access to Substantial Damage determinations list, which lead to permits being issued for structures that had been deemed to be Substantially Damaged, without ensuring the structures were brought into compliance with the Town's floodplain management regulations.
- Some of the cost to repair estimates seem to only include costs to repair damages located below the base flood elevation.
- In the Town's Substantial Damage Management Plan, November 2024-Draft, *Cost of Work Verification – Pre-Permit Issuance* section, it indicates that verification of repairs and associated cost to repair the structure will be accounted for before issuing a building permit.
-

○ *Corrective actions require:*

- On or before August 8, 2025, provide a Standard Operating Procedure that documents the Substantial Damage/Substantial Improvement Determination Process and the permitting process. This should include how determinations are shared with staff who process permit applications.

2. Floodplain reviews related to Private Providers

○ *Concerns:*

- The Town requires Under Construction Elevation Certificates to be submitted and approved, before the building's construction goes vertical.
- Private providers aren't complying with this requirement. Permits that were reviewed for documented structures well beyond this tie-beam inspection that had failed to submit Under Construction Elevation Certificates.
- Failure to take corrective actions can result in non-compliant structures being identified after construction has been completed.

○ *Corrective actions require:*

- On or before August 8, 2025, provide revised permitting process procedures and any supporting documentation that addresses failure by the Private Providers to meet the Town's requirement for submittal of the Under Construction Elevation Certificate.

3. The Town adopted the following ordinances to allow temporary placement of various types of units: "Temporary Placement of Emergency Uses, Manufactured Homes, Mobile Homes, Motor Homes, Recreational Vehicles Other Temporary Residential Dwelling or Temporary Moveable Commercial Units" (Ordinance 23-05), "Temporary Governmental, Residential (Manufactured Homes, Mobile Homes, Motor Homes, Recreational Vehicles Other Temporary Residential Dwellings) or Movable Commercial Uses following Natural Disasters or Other Emergencies" (Ordinance 24-04), and "RESOLUTION TO REVOKE AND RESCIND EMERGENCY TEMPORARY PLACEMENT PERMITS" (Resolution Number 24-296).

▪ *Concerns:*

- Ordinance 23-05 and 24-04 authorized installation of non-compliant temporary units.
- Resulted in numerous non-compliant temporary units. Some have been removed, while others are still present.
- Resolution Number 24-296 (approved December 16, 2024) "mandated removal of noncompliant structures that were incorrectly permitted," but numerous noncompliant structures remain in place.

▪ *Corrective actions require:*

- On or before August 8, 2025, remove the non-compliant temporary structures.

During the field tour, data for 252 sites was collected. The list of addresses includes sites that fall into the following categories: 1) non-compliant structures that need to be mitigated, 2) structures that require additional documentation to determine compliance, and 3) temporary structures that need to be elevated and anchored or removed. The list of site addresses with the required action/documentation are in the attached Site List.

Following the field tour, an exit meeting was held with the Town, FEMA, and FDEM staff on July 17, 2025. FEMA's findings of the community's floodplain management program and the floodplain development permit process were discussed. As stated in the meeting, we ask that you review each program deficiency and the attached site list. The deadline to submit the requested documents or documented actions is August 8, 2025.

We recommend that the staff who support the administration and enforcement of the Town's floodplain management program, including code enforcement staff, also attend floodplain management training courses. FEMA's National Disaster and Emergency Management University (NDEMU) and the Florida Floodplain Managers Association (FFMA) offer various floodplain management-related training courses for local officials. For your convenience, web addresses for NDEMU's and FFMA's website are provided below:

www.training.fema.gov
flfloods.org

We appreciate the Town of Fort Myers Beach's commitment to administering the NFIP. We would like to remind you that the requirement for participation in the CRS is your community's full compliance with the NFIP. Again, we request that the Town provide the requested documentation by August 8, 2025, for consideration of reinstatement to the CRS program on April 1, 2026. If your staff members have questions or require additional information, Ms. Tamara Hansen may be reached by telephone at (770) 220-5288 or by e-mail at tamara.hansen@fema.dhs.gov and Pier Janrhett may be reached by telephone at (202) 826-5655 or by e-mail at pier.janrhett@fema.dhs.gov.

Sincerely,

Jacky S. Bell
Director
Mitigation Division

Attachment: Site List

Cc: Ms. Jillian Kraynak, Florida NFIP State Coordinator
Ms. Traci Kohler, Deputy Town Manager, Town of Fort Myers Beach
Ms. Kelli Defedericis, Floodplain Administrator, Town of Fort Myers Beach
Mr. Tom Yozzo, Emergency Services Director, Town of Fort Myers Beach
Mr. Frankie Kropacek, Operations & Compliance Director, Town of Fort Myers Beach

HEARING

EXHIBIT

C

- Violated Regulations

Sec. 6-501. - Design and construction of buildings, structures and facilities exempt from the Florida Building Code.

Pursuant to ~~section 6-443~~, buildings, structures and facilities that are exempt from the Florida Building Code, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, must be designed and constructed in accordance with the flood load and flood-resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that are not walled and roofed buildings must comply with the requirements of division 10, subdivision VII.

(Ord. No. 16-02, § 2, 8-8-2016)

Sec. 6-525. - General requirements for other development.

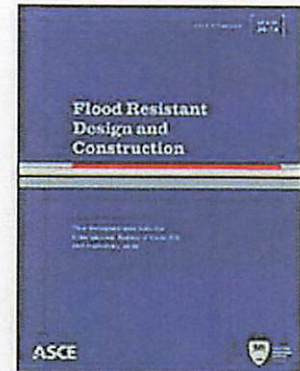
All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this article or the Florida Building Code, must:

- (1) Be located and constructed to minimize flood damage;
- (2) Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
- (3) Be constructed of flood damage-resistant materials; and
- (4) Have mechanical, plumbing and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

(Ord. No. 16-02, § 2, 8-8-2016)

HIGHLIGHTS OF ASCE 24-14 *Flood Resistant Design and Construction*

Published by the American Society of Civil Engineers (ASCE), *Flood Resistant Design and Construction*, ASCE 24, is a referenced standard in the *International Codes*® (I-Codes®). ASCE 24 states the minimum requirements and expected performance for the siting and design and construction of buildings and structures in flood hazard areas that are subject to building code requirements. Types of buildings and structures are described in ASCE 24-14, Table 1-1 (see page 5 of these Highlights), and include commercial, residential, industrial, educational, healthcare, critical facilities, and other occupancy types. Buildings and structures designed according to ASCE 24 are better able to resist flood loads and flood damage.



FEMA deems ASCE 24 to meet or exceed the minimum National Flood Insurance Program (NFIP) requirements for buildings and structures. ASCE 24 includes additional specificity, some additional requirements, and some limitations that are not in NFIP regulations.

Buildings and structures within the scope of the IBC and proposed to be located in any flood hazard area must be designed in accordance with ASCE 24. The 2015 I-Codes reference ASCE 24-14, while the 2006 through 2012 I-Codes reference ASCE 24-05. The *International Residential Code*® requires dwellings in floodways to be designed in accordance with ASCE 24, and the 2015 edition of the IRC allows use of ASCE 24 for dwellings in any flood hazard area (the 2012 and 2009 editions allow use of ASCE 24 in Coastal High Hazard Areas).

Highlights of ASCE 24-14 that complement the NFIP minimum requirements are described below.

A summary of significant technical revisions from ASCE 24-05 to ASCE 24-14 is reproduced on page 6 of these Highlights.

Building Performance

- Flood loads and other loads and load combinations are specified in ASCE 7-10, *Minimum Design Loads for Buildings and Other Structures*. Performance of foundations exposed to flooding is specified in ASCE 24. Soil characteristics and underlying strata, including soil consolidation, expansion or movement, erosion and scour, liquefaction and subsidence must be considered, as applicable.
- Flood Design Classes replace Occupancy/Risk Categories for the purpose of establishing elevations of lowest floors, flood-resistant materials, equipment and floodproofing. The 2015 *International Building Code* requires designers to identify the Flood Design Class assigned in accordance with ASCE 24-14.
- Elevation and Freeboard (additional height above the NFIP's base flood elevation) are specified as a function of the Flood Design Class and the nature of the flood hazard areas (see table on page 4 of these Highlights). Essential facilities (Flood Design Class 4) must be elevated or protected to the BFE + 2 ft or 500-year flood elevation, whichever is higher.
- Elevation requirements in Zone V and Coastal A Zones are independent of orientation of the lowest horizontal structural member (relative to direction of wave approach) as a factor in determining the required freeboard (ASCE 24-05 made elevation a function of orientation of the lowest horizontal structural member relative to the direction of wave approach).

ASCE 24 uses 'design flood' and 'design flood elevation' to acknowledge that some communities adopt flood hazard maps that depict flood hazard areas in addition to Special Flood Hazard Areas shown on FEMA's Flood Insurance Rate Maps (FIRM).

The design flood elevation (DFE) equals the base flood elevation (BFE) in communities that regulate based on FIRMs. The DFE is always equal to or higher than the BFE.

- Fill is required to be stable under conditions of flooding, including rapid rise and rapid drawdown, prolonged inundation, and erosion and scour. Compaction of structural fill is specified unless otherwise required by the building code or in a geotechnical or engineering report. Fill side slopes must be no steeper than 1:1.5.
- Two methods are specified to meet the requirements for flood openings in walls of enclosures below elevated buildings, to allow for the automatic entry and exit of floodwater: nonengineered openings that do not require certification (1 sq in per sq ft of enclosed area) and engineered openings that must be certified by a registered design professional. The performance of engineered openings must account for the presence of louvers, blades, screens, grilles, faceplates, or other covers and devices and must ensure that the difference between the exterior and interior floodwater levels does not exceed 1 foot. Installation of all flood openings must be in at least two walls and must be no more than 1 foot above the higher of the interior grade or floor and the finished exterior grade immediately under each opening.
- All breakaway walls in all flood hazard areas must have flood openings (ASCE 24-05 did not require flood openings in Zone V breakaway walls).
- Provisions are included for attached and detached decks and porches, and for garages, carports, and accessory storage structures.
- Provisions are listed for concrete slabs-on-grade, depending on the purpose and location of the slabs.
- Stairways and ramps must be designed and constructed to resist flood loads and to minimize transfer of flood loads to foundations, or to break away without causing damage to the main structure, or to be retractable/able to be raised.
- Where stairways are located inside areas enclosed with breakaway walls, exterior doors are required at the main building entry at the top of the stairs, to minimize entry of wind-driven rain and wave splash after breakaway walls have failed.
- In Coastal High Hazard Areas (Zone V) and Coastal A Zones:
 - Coastal A Zones are treated like Coastal High Hazard Areas if FEMA has delineated a Limit of Moderate Wave Action, or if the community has designated a Coastal A Zone.
 - Buildings must be supported on piles, drilled shafts, caissons, or other deep foundations (including columns, and shear walls) and foundation depth must take into account erosion and local scour.
 - Stem walls supporting floors and backfilled with soil or gravel are allowed in Coastal A Zones if designs provide for the effects of local scour and erosion.
 - Requirements are included for shallow foundations in circumstances where soil conditions prevent deep foundations.
 - Provisions are provided for pile foundations, attachment to piles, and different types of piles (wood, steel H, concrete-filled steel pipe, prestressed concrete, precast concrete, cast-in-place concrete).
 - Provisions are provided for pile design (capacity, capacity of supporting soils, minimum penetration, spacing, connections, splicing, and mixed and multiple types of piles).
 - Provisions are provided for footings, mats, rafts, slabs-on-grade, pile caps, grade beams, bracing, and shear walls.
 - Walls designed to break away must not produce debris that is capable of damaging structures.
 - Erosion control structures (bulkheads, seawalls, revetments) must not be attached to buildings or direct floodwater into or increase flood forces or erosion impacts on structures.
 - Pools must be elevated, or designed to breakaway without producing damaging debris, or designed to remain in the ground without obstructing flow that causes damage. Pools must be structurally independent of buildings and structures unless pools are located in or on elevated floors or roofs that are above the design flood elevation.

- Dry floodproofed nonresidential buildings and non-residential portions of mixed-use buildings:
 - The terms “mixed use” and “residential portions of mixed use” now are defined in Commentary.
 - Dry floodproofing measures are not permitted in Coastal High Hazard Areas, Coastal A Zones, High Risk Flood Hazard Areas, where flood velocities exceed 5 ft/sec, and where conformance with certain human intervention limits cannot be achieved.
 - At least one exit door or emergency escape/rescue opening must be provided above the elevation specified for dry floodproofing.
 - If dry floodproofing measures specified require human intervention to activate or implement, there must be a minimum warning time of 12 hours unless a community warning system provides a warning time sufficient to accomplish certain activities. If removable shields are approved as part of design, flood emergency plans must address specified elements and actions and must be posted in at least two conspicuous locations.

Flood Damage-Resistant Materials

- Flood damage-resistant materials must be used below specified elevations (see table on page 4).
- Metal connectors and fasteners exposed to salt water, salt spray or other corrosive agents must be stainless steel or equivalent corrosion resistant material, or hot-dipped galvanized after fabrication.
- Where preservative treated wood is required, treatment must be in accordance with AWP requirements.

Attendant Utilities and Equipment

- Attendant utilities and equipment must be at or above specified elevations (see table on page 4), or must be specifically designed, constructed, and installed to prevent floodwaters from entering or accumulating within components.
- Fuel supply lines must be equipped with float operated automatic shut-off valves.
- Where required to meet life safety provisions of the code, certain exterior electrical components may be installed below the design flood elevation, provided they are installed on a non-breakaway structural element on the landward or downstream side of structures.
- Tanks that are below the design flood elevation and that are attached to or beneath buildings must be installed and anchored to resist at least 1.5 times the potential buoyant and other flood forces assumed to act on empty tanks.
- Elevator cabs that descend below the design flood elevation must be equipped with controls that prevent the cab from descending into floodwaters. Elevator shafts must be designed to resist flood loads, but are not required to have flood openings or breakaway walls.

Siting Considerations

- New buildings must not be built (1) seaward of the reach of mean high tide, or (2) in areas subject to flash flooding (floodwaters rise to 3 feet or more above banks in less than 2 hours). Unless protected, new buildings must not be built (1) in erosion-prone areas (determined by analysis); or (2) in mudslide areas (determined by analysis); or (3) in certain portions of alluvial fan areas; or (4) in high velocity flow areas (faster than 10 ft/sec); or (5) in ice jam and debris areas.
- Buildings in proximity to flood protective works (dams, levees, floodwalls, diversions, channels, flood control structures) must not have adverse effects on, or conflict with, maintenance and repairs of those protective works.

Prepared by FEMA Building Science Branch. Content from ASCE 24-14 used with permission from ASCE. Purchase ASCE 24 at www.asce.org.

See next page for description of Flood Design Classes →

		Flood Design Class 1	Flood Design Class 2	Flood Design Class 3	Flood Design Class 4
Minimum Elevation* of Lowest Floor (Zone A: ASCE 24-14 Table 2-1)	Zone A not identified as Coastal A Zone	DFE	BFE +1 ft or DFE, whichever is higher	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, or 500-year flood elevation, whichever is higher
Minimum Elevation of Bottom of Lowest Horizontal Structural Member (Zone V: ASCE 24-14 Table 4-1)	Coastal High Hazard Areas (Zone V) and Coastal A Zone	DFE	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, whichever is higher	BFE +2 ft or DFE, or 500-year flood elevation, whichever is higher
Minimum Elevation Below Which Flood-Damage-Resistant Materials Shall be Used (Table ASCE 24-14 5-1)	Zone A not identified as Coastal A Zone	DFE	BFE +1 ft or DFE, whichever is higher	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, or 500-year flood elevation, whichever is higher
	Coastal High Hazard Areas (Zone V) and Coastal A Zone	DFE	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, whichever is higher	BFE +2 ft or DFE, or 500-year flood elevation, whichever is higher
Minimum Elevation** of Utilities and Equipment (ASCE 24-14 Table 7-1)	Zone A not identified as Coastal A Zone	DFE	BFE +1 ft or DFE, whichever is higher	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, or 500-year flood elevation, whichever is higher
	Coastal High Hazard Areas (Zone V) and Coastal A Zone	DFE	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, whichever is higher	BFE +2 ft or DFE, or 500-year flood elevation, whichever is higher
Minimum Elevation of Dry Floodproofing of non-residential structures and non-residential portions of mixed-use buildings (ASCE 24-14 Table 6-1)	Zone A not identified as Coastal A Zone	BFE +1 ft or DFE, whichever is higher	BFE +1 ft or DFE, whichever is higher	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, or 500-year flood elevation, whichever is higher
	Coastal High Hazard Areas (Zone V) and Coastal A Zone	Not permitted	Not permitted	Not permitted	Not permitted
Minimum Elevation of Wet Floodproofing*** (ASCE 24-14 Table 6-1)	Zone A not identified as Coastal A Zone; Coastal A Zone; Coastal High Hazard Areas (Zone V)	BFE +1 ft or DFE, whichever is higher	BFE +1 ft or DFE, whichever is higher	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, or 500-year flood elevation, whichever is higher
* Flood Design Class 1 structures shall be allowed below the minimum elevation if the structure meets the wet floodproofing requirements of ASCE 24-14 Section 6.3. ** Unless otherwise permitted by ASCE 24-14 Chapter 7 *** Only if permitted by ASCE 24-14 Section 6.3.1					

ASCE 24-14 Table 1-1 Flood Design Class of Buildings and Structures	
Use or Occupancy of Buildings and Structures	Flood Design Class
Buildings and structures that normally are unoccupied and pose minimal risk to the public or minimal disruption to the community should they be damaged or fail due to flooding. Flood Design Class 1 includes (1) temporary structures that are in place for less than 180 days, (2) accessory storage buildings and minor storage facilities (does not include commercial storage facilities), (3) small structures used for parking of vehicles, and (4) certain agricultural structures. [Note (a)]	1
Buildings and structures that pose a moderate risk to the public or moderate disruption to the community should they be damaged or fail due to flooding, except those listed as Flood Design Classes 1, 3, and 4. Flood Design Class 2 includes the vast majority of buildings and structures that are not specifically assigned another Flood Design Class, including most residential, commercial, and industrial buildings.	2
Buildings and structures that pose a high risk to the public or significant disruption to the community should they be damaged, be unable to perform their intended functions after flooding, or fail due to flooding. Flood Design Class 3 includes (1) buildings and structures in which a large number of persons may assemble in one place, such as theaters, lecture halls, concert halls, and religious institutions with large areas used for worship; (2) museums; (3) community centers and other recreational facilities; (4) athletic facilities with seating for spectators; (5) elementary schools, secondary schools, and buildings with college or adult education classrooms; (6) jails, correctional facilities, and detention facilities; (7) healthcare facilities not having surgery or emergency treatment capabilities; (8) care facilities where residents have limited mobility or ability, including nursing homes but not including care facilities for five or fewer persons; (9) preschool and child care facilities not located in one- and two-family dwellings; (10) buildings and structures associated with power generating stations, water and sewage treatment plants, telecommunication facilities, and other utilities which, if their operations were interrupted by a flood, would cause significant disruption in day-to-day life or significant economic losses in a community; and (11) buildings and other structures not included in Flood Design Class 4 (including but not limited to facilities that manufacture, process, handle, store, use, or dispose of such substances as hazardous fuels, hazardous chemicals, hazardous waste, or explosives) containing toxic or explosive substances where the quantity of the material exceeds a threshold quantity established by the authority having jurisdiction and is sufficient to pose a threat to the public if released. [Note (b)]	3
Buildings and structures that contain essential facilities and services necessary for emergency response and recovery, or that pose a substantial risk to the community at large in the event of failure, disruption of function, or damage by flooding. Flood Design Class 4 includes (1) hospitals and health care facilities having surgery or emergency treatment facilities; (2) fire, rescue, ambulance, and police stations and emergency vehicle garages; (3) designated emergency shelters; (4) designated emergency preparedness, communication, and operation centers and other facilities required for emergency response; (5) power generating stations and other public utility facilities required in emergencies; (6) critical aviation facilities such as control towers, air traffic control centers, and hangars for aircraft used in emergency response; (7) ancillary structures such as communication towers, electrical substations, fuel or water storage tanks, or other structures necessary to allow continued functioning of a Flood Design Class 4 facility during and after an emergency; and (8) buildings and other structures (including, but not limited to, facilities that manufacture, process, handle, store, use, or dispose of such substances as hazardous fuels, hazardous chemicals, or hazardous waste) containing sufficient quantities of highly toxic substances where the quantity of the material exceeds a threshold quantity established by the authority having jurisdiction and is sufficient to pose a threat to the public if released. [Note (b)]	4
[Note (a)] Certain agricultural structures may be exempt from some of the provisions of this standard; see ASCE 24-14 Section C1.4.3. [Note (b)] Buildings and other structures containing toxic, highly toxic, or explosive substances shall be eligible for assignment to a lower Flood Design Class if it can be demonstrated to the satisfaction of the authority having jurisdiction by a hazard assessment as described in ASCE 7-10 Section 1.5.3 of <i>Minimum Design Loads for Buildings and Other Structures</i> that a release of the substances is commensurate with the risk associated with that Flood Design Class.	

Significant Technical Revisions

ASCE 24-14 lists a number of significant technical revisions from the 2005 edition:

1. Defines *Flood Design Class* rather than use Risk/Occupancy Classification assigned under ASCE 7 and requires each building or structure governed by the standard to be assigned to Flood Design Class 1, 2, 3, or 4. Uses the assigned Flood Design Class to apply elevation requirements specified in Chapters 2, 4, 5, 6 and 7. Flood Design Class 4 buildings and facilities are equivalent to Occupancy Category/Risk Category IV buildings, which ASCE 7-10 identifies as essential facilities.
2. Adds definitions for *Mixed Use* and *Residential Portions of Mixed Use* in commentary to clarify limitations on use of dry floodproofing measures.
3. Changes the Coastal A Zone determination requirement from the designer's responsibility to one depending on either: 1) delineation of a Limit of Moderate Wave Action (LiMWA) on a Flood Insurance Rate Map, or 2) designation by the Authority Having Jurisdiction.
4. Separates specifications for flood openings from the installation requirements. Requires the presence of louvers, blades, screens, faceplates, or other covers and devices to be accounted for in determining net open area for non-engineered openings and in determining the performance of engineered openings. Revises coefficient of discharge table for engineered flood openings. Adds commentary regarding selection of coefficient of discharge and for grouping or stacking of flood openings.
5. For Flood Design Class 4 buildings, requires the minimum lowest floor elevation (or floodproofing level of protection) to be the higher of: the Base Flood Elevation plus freeboard specified in Chapters 2, 4 and 6, the Design Flood Elevation, or the 500-year flood elevation. The 500-year flood elevation requirement is new.
6. Clarifies text pertaining to alluvial fan high risk flood hazard areas.
7. In coastal high hazard areas (V Zone) and Coastal A Zones (if delineated):
 - a. Makes explicit that designs must account for local scour and erosion
 - b. Provides for shallow foundations in Coastal A Zones under certain circumstances
 - c. Requires flood openings in breakaway walls
 - d. Eliminates orientation of the lowest horizontal structural member as a factor to determine elevation for lowest floors, equipment, and flood damage-resistant materials
 - e. Requires exterior doors at the top of stairways that are located inside enclosed areas with breakaway walls
 - f. Consolidates requirements for all nonstructural concrete slabs
 - g. Allows substantial improvement of existing buildings seaward of the reach of mean high tide in V zones (makes ASCE 24 consistent with NFIP) and Coastal A Zones.
8. Updates flood damage-resistant material requirements.
9. Clarifies emergency escape and rescue opening requirements for dry floodproofed buildings.
10. Clarifies requirements for garages, carports, and accessory storage structures. Adds new section for multistory parking structures.
11. Consolidates requirements for tanks and more clearly distinguishes between requirements based on flood hazard area.

Property Address and Owner:

Hearing Date: October 1, 2025

Property Owner: Bradford Joseph Benson Trust
Property Address: 1021 Estero Blvd
Violation: Non-Compliant Structure

Subject:

Code Section:

Reference Number:

Strap Number:

Officer:

Narrative:

Attachments:

1. 20250224_Hearing Exhibit A_Notice of Violation and Notice of Hearing with attached Affidavit of Notice and Posting
2. 20250224_Hearing Exhibit B_FEMA and Related Ordinances
3. 20250224_Hearing Exhibit C_Violated Regulations

Town Recommendations:

Town Approvals:

Thomas Yozzo, Emergency Services Director

Date: September 17, 2025



Traci Kohler, Deputy Town Manager

Date: September 17, 2025

nancy stuparich, Town Attorney

Date: September 23, 2025

Lizzette Roman, Town Clerk Administrative Coordinator

Date: September 24, 2025

Amy Baker, Town Clerk

Date: September 24, 2025

HEARING

EXHIBIT

A

- Notice of Hearing and Affidavit of Posting



Town of Fort Myers Beach

NOTICE OF VIOLATION AND NOTICE OF CODE ENFORCEMENT HEARING

6231 Estero Blvd, Fort Myers Beach, FL 33931

Phone : (239) 765-0202

Date: September 4, 2025

Case Number: **20250224**

Owner: **BRADFORD JOSEPH BENSON TRUST**

Mailing Address: 927 Prescott St, Fort Myers Beach, FL 33931

Property Address: **1021 ESTERO BLVD**, Fort Myers Beach, FL 33931

Certified Mail # 9589071052703142135088, 9589071052703142135071

Parcel: Standard First Class Mail

YOU ARE HEREBY NOTIFIED that the undersigned Code Officer alleges that on September 4, 2025 the following violation(s) of the Land Development Code of the Town of Fort Myers Beach, Florida, existed on the property above:

Code Violation: On 09/04/2025, a violation was discovered For the keeping and / or maintaining of non-compliant structure(s) on property, which are not built to current flood design codes in the Special Hazard Areas defined in Section 6-494 of the FMB Code of Ordinances. was identified as a violation of the Town's Codes:

ASCE 24-14 - A copy is available at https://www.fema.gov/sites/default/files/2020-07/asce24-14_highlights_jan2015.pdf

Sec. 6-501. - Design and construction of buildings, structures and facilities exempt from the Florida Building Code. - Pursuant to section 6-443, buildings, structures and facilities that are exempt from the Florida Building Code, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, must be designed and constructed in accordance with the flood load and flood-resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that are not walled and roofed buildings must comply with the requirements of division 10, subdivision VII.

Sec. 6-525. - General requirements for other development. - All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this article or the Florida Building Code, must:

(1) Be located and constructed to minimize flood damage;(2) Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;(3) Be constructed of flood damage-resistant materials; and(4) Have mechanical, plumbing and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

Corrective Action Required:

The following action is required to bring the violation(s) into compliance. (1) Remove structure(s) (2) Provide proof of Compliance with the requirements of Chapter 6, Article IV Division Section 6-501 and 5-525 of the Land Development Code. Contact Thomas Yozzo (Emergency Services Director) 239-765-0202

Compliance is required on or before: September 19, 2025

If the referenced violations are corrected from the date of issuance of this notice, you must contact the Code Enforcement Officer at (239) 765-0202.

A HEARING FOR THIS MATTER HAS BEEN SET BY THE SPECIAL MAGISTRATE CLERK FOR THE 1st DAY OF OCTOBER 2025, AT 9:00 AM, AT 6231 ESTERO BLVD, FORT MYERS BEACH, FL 33931. (Fort Myers Beach Town Hall Council Chambers)

☐ Should all violations not be corrected and approved by the undersigned Code Enforcement Officer within the date and time specified above, you will be required to appear at the prosecution of this matter before the Town's Special Magistrate for Code Compliance, pursuant to Division 2 of Article V of Chapter 2 of the Town Land Development Code and Chapter 162, Florida Statutes. **THIS HEARING, REQUIRING YOU TO BE PRESENT, WILL BE HELD IF THE VIOLATION(S) HAVE NOT BEEN BROUGHT INTO COMPLIANCE AND APPROVED BY THE CODE ENFORCEMENT DEPARTMENT BY Wednesday, September 3, 2025 AS EVIDENCED BY THE ISSUANCE OF AN AFFIDAVIT OF COMPLIANCE BY THE CODE ENFORCEMENT OFFICER.** If a violation is corrected and then recurs, or if a violation is not corrected by the time specified for correction by the code inspector, the case may be presented to the Special Magistrate even if the violation has been corrected prior to the board hearing.

☐ The Code Officer has reason to believe that the violation(s) or the condition causing the violation(s) presents a serious threat to the public health, safety, and welfare or is irreparable or irreversible in nature, and therefore, no compliance date has been provided. This case may be presented to the Special Magistrate even if the violation(s) have been corrected prior to the hearing.

☐ The Code Officer has reason to believe that repeat violations have been found, and therefore, no compliance date has been provided. This case may be presented to the Special Magistrate even if the repeat violation(s) have been corrected prior to the hearing.

The purpose of this Hearing is for the Special Magistrate to make "Findings of Fact" and "Conclusions of Law" relating to the violation(s) specified in the attached Violation detail and to issue an appropriate Order. The Hearing is also your opportunity to present evidence and/or contest

the alleged violations, should you wish to do so. If a violation is found, the Order may require you to correct the violation(s) by a specified date. In addition, the Order may impose daily fines as per Florida Statutes Section 162.09(2)(a) of the following:

- \$250/ day per violation
- \$500/day for repeat offenses
- \$5,000 for irreversible or irreparable violations

Additionally, administrative fines may be imposed to recover all costs incurred by the Town in prosecuting this matter. If all violations are not corrected prior to the Hearing date, you may be assessed any such costs. **THE IMPOSITION OF FINES AND/OR COSTS MAY RESULT IN A LIEN AGAINST YOU AND YOUR PROPERTY.**

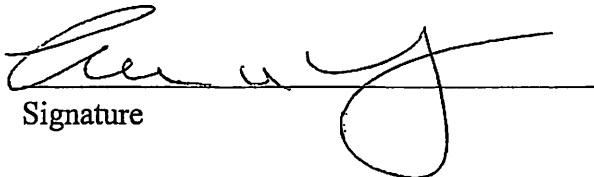
You should be aware that if the alleged violation(s) is/are corrected prior to the Hearing, and recurs within five (5) years from the date of the original Notice of Violation, the case may be presented to the Special Magistrate as a Recurring Violation even if the violation is subsequently corrected.

You have the right to be represented by an attorney and to respond and present evidence and witnesses at the Hearing. If you wish to be represented by an attorney, your attorney **MUST** notify the Special Magistrate's Clerk in writing at least five (5) working days before the Hearing.

You may also have other rights which are set forth in Division 2 of Article V of Chapter 2 of the Town Land Development Code. If a person decides to appeal any decision with respect to any matter considered at this Hearing, such person will need to ensure that a verbatim record of the proceedings is made, which includes the testimony and evidence upon which the appeal is to be based (Section 286.0105, Florida Statutes).

For additional HEARING information, contact the Town of Fort Myers Beach Special Magistrate Clerk at (239) 765-0202 x 1351.

Thomas Yozzo

A handwritten signature in black ink, appearing to read 'Thomas Yozzo', written over a horizontal line. The signature is stylized with a large loop at the end.

Signature
Code Enforcement Officer
Fort Myers Beach, Florida



TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

FMB Case Number:	20250224
Certified Mail:	9589071052703142135088 9589071052703142135071
Regular Mail:	Standard 1st Class
DOAH Case Number:	Not Assigned

BRADFORD JOSEPH BENSON TRUST

927 Prescott St
Fort Myers Beach, FL 33931

Site Address: 1021 Estero Blvd,
Fort Myers Beach, FL 33931
Parcel Strap No. 24-46-23-W3-00208.0040

Respondent,

AFFIDAVIT OF NOTICE AND POSTING

STATE OF FLORIDA

COUNTY OF LEE

BEFORE ME, the undersigned authority, personally appeared Thomas Yozzo, who is the Emergency Services Director for the Town of Fort Myers Beach, who was sworn and under oath, deposes and says the following regarding case #20250224 that certain Notice Of Violation and Special Magistrate Code Hearing. Presented as Hearing Exhibit B (" The Notice")

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | 2731 Oak Street, Fort Myers Beach, FL 33931



I personally mailed by certified mail & first-class service a copy of the Notice of Violation to the following:

- a. Bradford Joseph Benson Trust
927 Prescott St
Fort Myers Beach, FL 33931
Certified Mail No. 9589071052703142135088
(Listed Leepa.org Property Owner Address)
- b. Buffalo Grill
1021 Estero Blvd
Fort Myers Beach, FL 33931
Certified Mail No. 9589071052703142135071
(Operating business on property)

Copies of the certified mailing receipts are attached in Hearing Exhibit A.

1. I posted a copy of the Notice at 7295 Estero Blvd, Fort Myers Beach, FL 33931, which is the subject property. I took photographs of the Notice I posted on the 5th day of September 2025. A true, accurate and unaltered copy of the photographs are attached in Hearing Exhibit A.
2. I posted a copy of the Notice at the primary municipal government office for the Town of Fort Myers Beach, which is Town Hall and located at 6231 Estero Blvd, Fort Myers Beach, FL 33931. True, accurate and unaltered copies of photographs I took of the Notice posted on the 5th day of September 2025 are attached in Hearing Exhibit A.



3. In addition, I posted a copy of the Notice on the Town's publicly accessible website at <https://www.fortmyersbeachfl.gov/1294/Public-Notices> on the 5th day of September, 2025. A copy of the posted webpage is attached as Evidence in Hearing Exhibit A.

Under penalties of perjury, I declare that I have read the foregoing affidavit and that the facts stated in it are true and to the best of my knowledge and belief comply with Section 2-429 of the Town Land Development Code and Section 162.12, Florida Statutes.

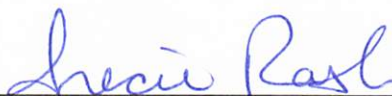
x 
Signature of Affiant

**STATE OF FLORIDA
COUNTY OF LEE**

The foregoing instrument was sworn to, subscribed and acknowledged before me by means of either ☒ personal presence or ☐ online notarization this 5 day of September, 2025, by T Yozzo. They ☒ are personally known to me or ☐ has produced _____ as identification.



[Notary Seal]


Notary Public, State of Florida
Print Name: Tracie Raski
My Commission Expires: 2/3/2029

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Sent by: MC
1021 ESTERO BLVD

BUFFALO GRILL
1021 ESTERO BLVD
FORT MYERS BEACH, FL 33931

PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions

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☐ Adult Signature Restricted Delivery \$
Postage \$
Total Postage and Fees \$

Town of Fort Myers Beach
20250224
SEP 05 2025
Postmark Here
Sent by: MC
1021 ESTERO BLVD

BRADFORD JOSEPH BENSON TRUST
927 PRESCOTT ST.
FORT MYERS BEACH, FL 33931

PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions

Jul 8, 2025 10:52:36 AM
Fort Myers Beach



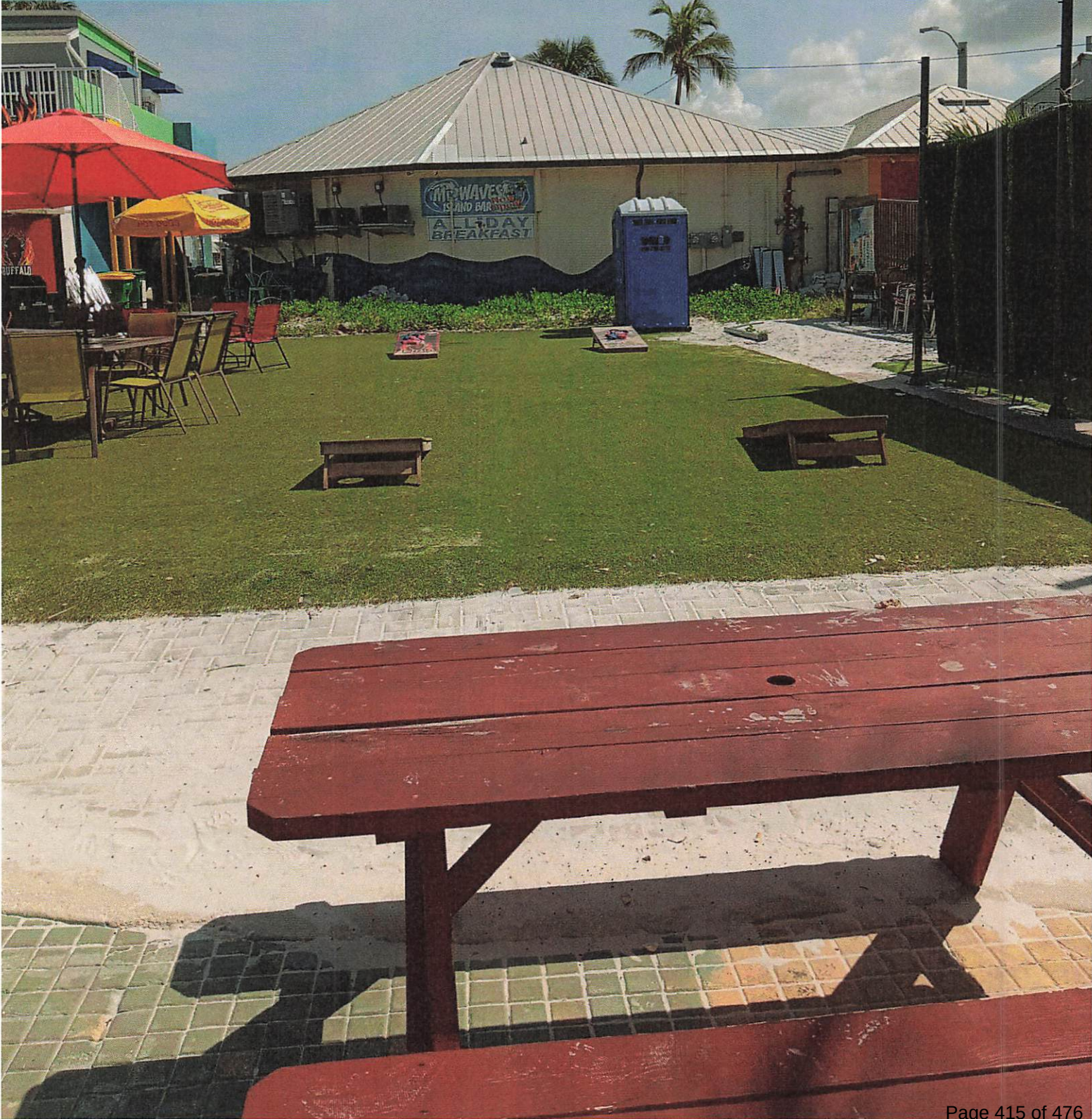
Jul 8, 2025 10:53:36 AM
Fort Myers Beach



Jul 8, 2025 10:53:39 AM
Fort Myers Beach



Jul 8, 2025 10:53:24 AM
Fort Myers Beach



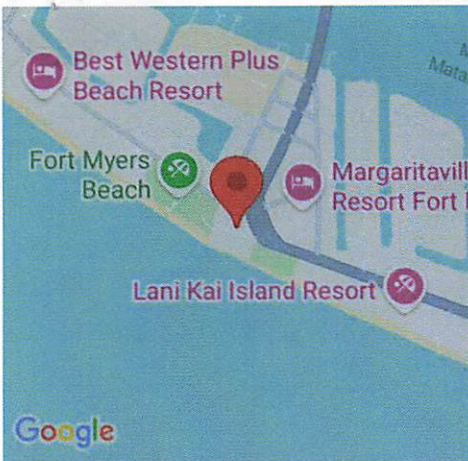








Jul 8, 2025 10:53:48 AM
Fort Myers Beach



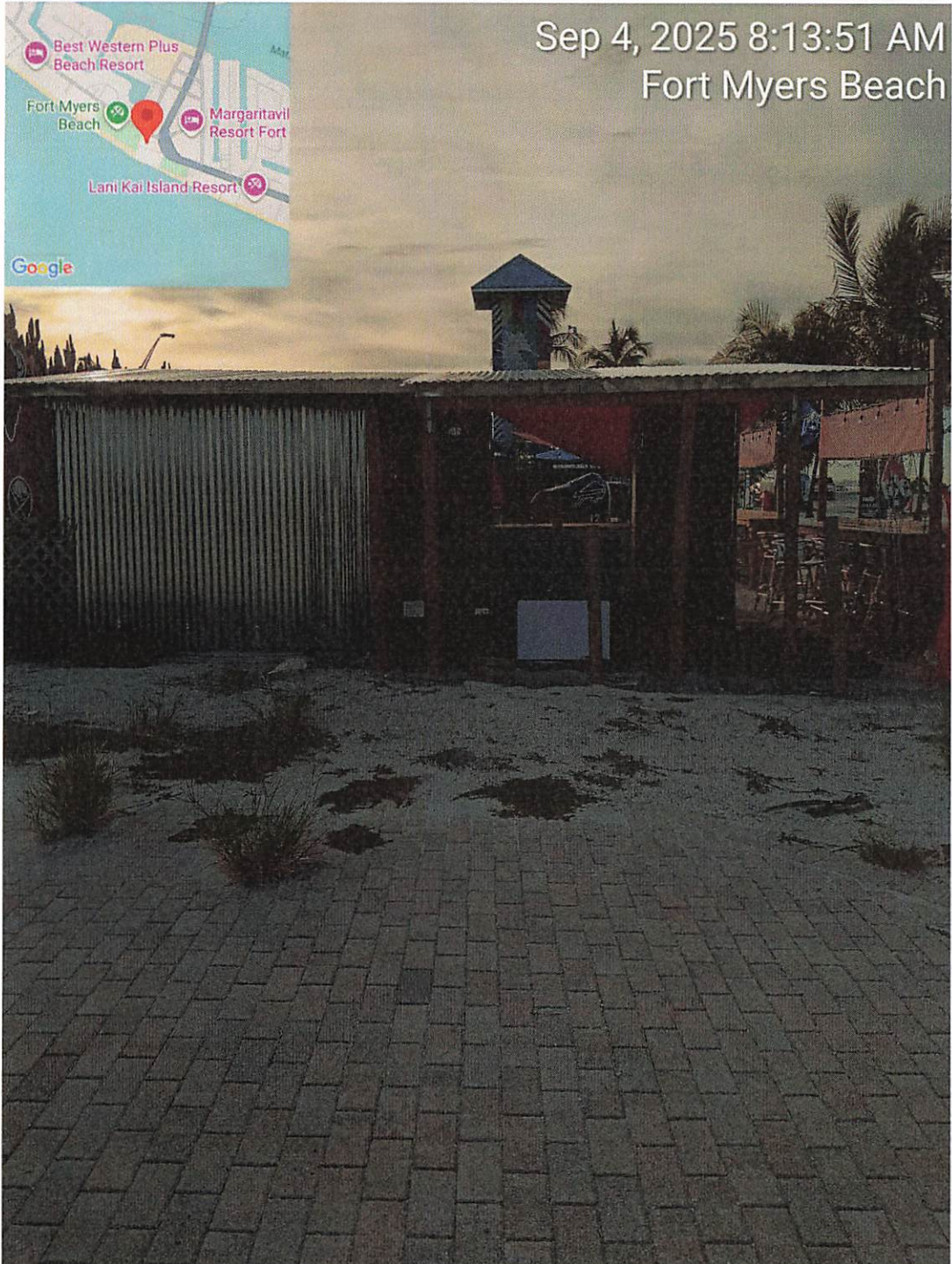
Jul 8, 2025 10:52:32 AM
Fort Myers Beach



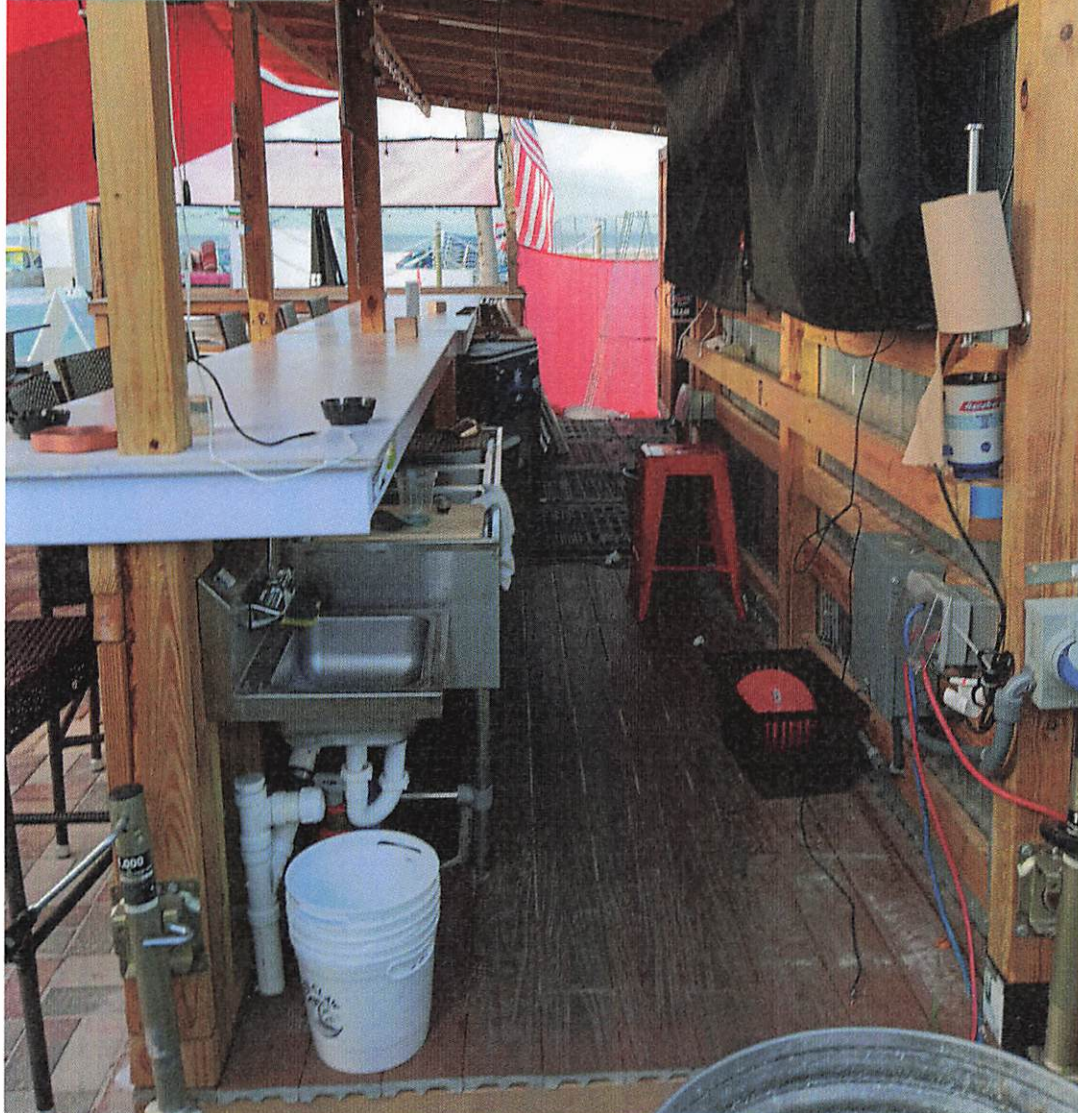


Jul 8, 2025 10:52:50 AM
Fort Myers Beach



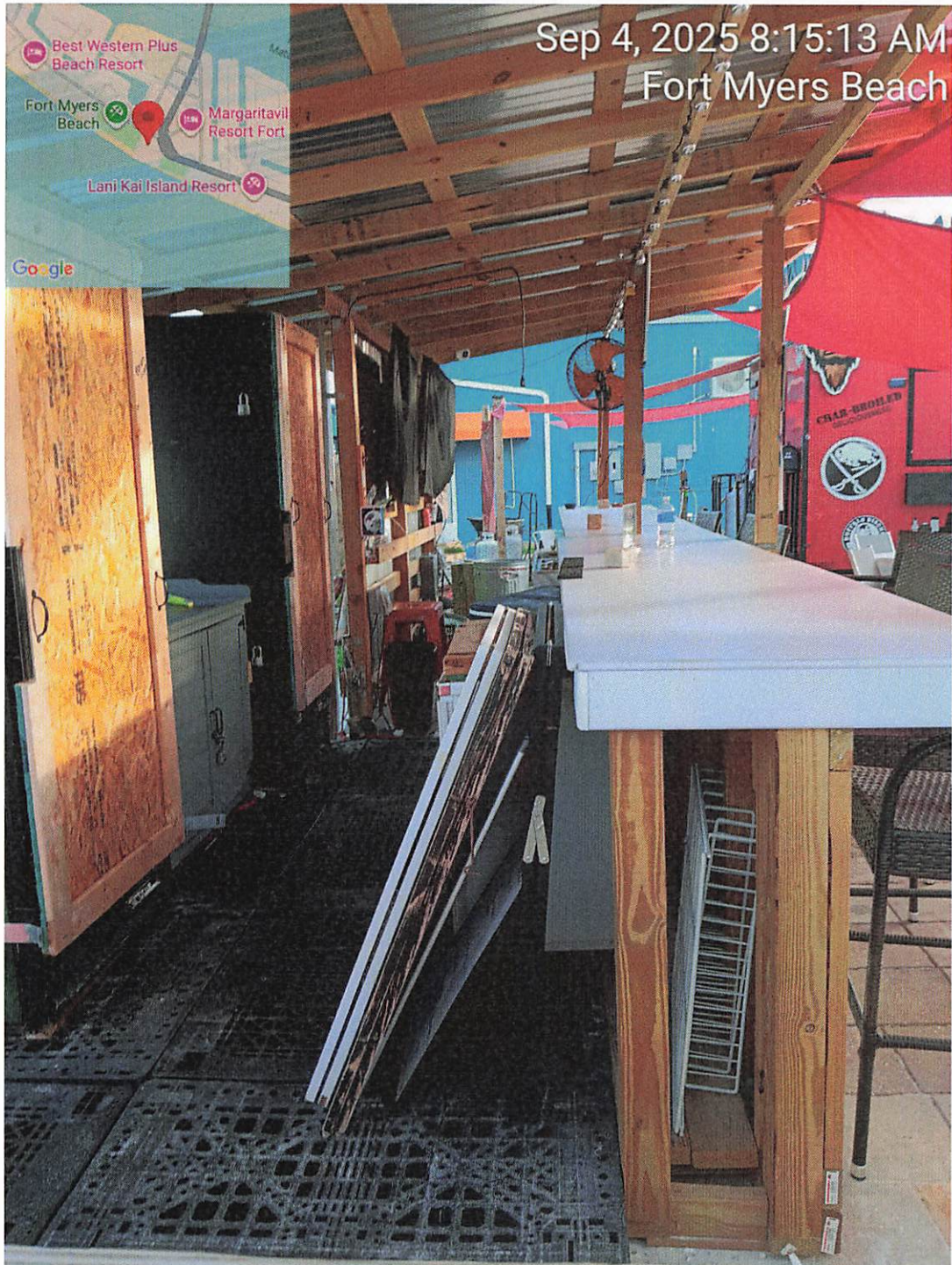


Sep 4, 2025 8:14:37 AM
Fort Myers Beach

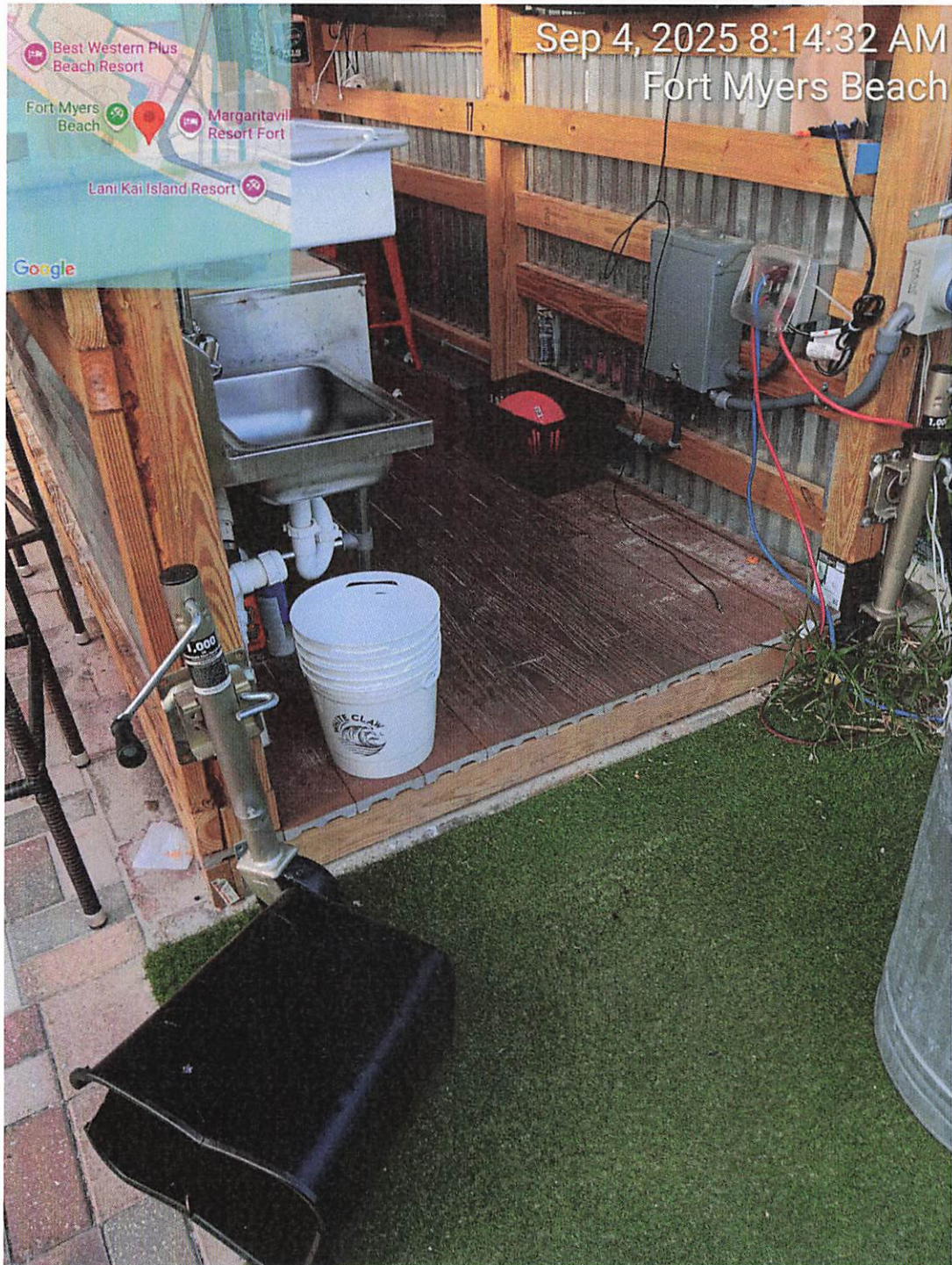


Sep 4, 2025 8:14:13 AM
Fort Myers Beach











Town of Fort Myers Beach
NOTICE OF VIOLATION AND NOTICE OF CODE
ENFORCEMENT HEARING
6231 Estero Blvd, Fort Myers Beach, FL 33931
Phone : (239) 765-0202

Date: September 4, 2025

Case Number: 20250224

Owner: **BRADFORD JOSEPH BENSON TRUST**
Mailing Address: 927 Prescott St, Fort Myers Beach, FL 33931
Property Address: **1021 ESTERO BLVD**, Fort Myers Beach, FL 33931
Certified Mail #: 9589071052703142135088, 9589071052703142135071
Parcel: Standard First Class Mail

YOU ARE HEREBY NOTIFIED that the undersigned Code Officer alleges that on September 4, 2025 the following violation(s) of the Land Development Code of the Town of Fort Myers Beach, Florida, existed on the property above:

Code Violation: On 09/04/2025, a violation was discovered For the keeping and / or maintaining of non-compliant structure(s) on property, which are not built to current flood design codes in the Special Hazard Areas defined in Section 6-484 of the FMB Code of Ordinances, was identified as a violation of the Town's Codes.

ASCE 24-14 - A copy is available at https://www.fema.gov/sites/default/files/2020-07/asce24-14_highlights_jan2015.pdf

Sec. 6-501. - Design and construction of buildings, structures and facilities exempt from the Florida Building Code. - Pursuant to section 6-443, buildings, structures and facilities that are exempt from the Florida Building Code, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, must be designed and constructed in accordance with the flood load and flood resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that are not walled and rooted buildings must comply with the requirements of Division 10, subdivision VII.

Sec. 6-525. - General requirements for other development. - All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this article or the Florida Building Code, must:

(1) Be located and constructed to minimize flood damage (2) Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood (3) Be constructed of flood damage-resistant materials, and (4) Have mechanical, plumbing and electrical systems, above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.



AMERICA
BUFFALO
GRILL

SHIRTS



L 33931
765-0909

1095	
224100000	017
Standard 1st Cl	



Town of Fort Myers Beach
NOTICE OF VIOLATION AND NOTICE OF CODE
ENFORCEMENT HEARING

6231 Estero Blvd, Fort Myers Beach, FL 33931
Phone : (239) 765-0202

Date: September 4, 2025

Case Number: 20250224

Owner: **BRADFORD JOSEPH BENSON TRUST**

Mailing Address: 927 Prescott St. Fort Myers Beach, FL 33931

Property Address: 1021 ESTERO BLVD, Fort Myers Beach, FL 33931

Certified Mail # 9589071052703142135088, 9589071052703142135071

Parcel: Standard First Class Mail

YOU ARE HEREBY NOTIFIED that the undersigned Code Officer alleges that on September 4, 2025 the following violation(s) of the Land Development Code of the Town of Fort Myers Beach, Florida, existed on the property above:

Code Violation: On 09/04/2025, a violation was discovered For the keeping and / or maintaining of non-compliant structure(s) on property, which are not built to current flood design codes in the Special Hazard Areas defined in Section 6-494 of the FMB Code of Ordinances. was identified as a violation of the Town's Codes:

ASCE 24-14 - A copy is available at https://www.fema.gov/sites/default/files/2020-07/asce24-14_highlights_jan2015.pdf

Sec. 6-501. - Design and construction of buildings, structures and facilities exempt from the Florida Building Code. - Pursuant to section 6-443, buildings, structures and facilities that are exempt from the Florida Building Code, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, must be designed and constructed in accordance with the flood load and flood-resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that are not walled and roofed buildings must comply with the requirements of division 10, subdivision VII.

Sec. 6-525. - General requirements for other development. - All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this article or the Florida Building Code, must:

(1) Be located and constructed to minimize flood damage; (2) Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood; (3) Be constructed of flood damage-resistant materials; and (4) Have mechanical, plumbing and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

Staples.

Myers Beach
COMPLIANCE
Myers Beach, FL 33931
Fax: (239) 765-0909

Page 1 13

08/21/2025

GOLDEN JAM
646 CHESTER
BROOKHAVEN

SITE ADDRESS
PARCEL STRAF

YOU ARE H
Fort Myers Beach

Sep 5, 2025 11:38:49 AM Page 432 of 476

PREPARED BY AND RETURN TO:
THOMAS G. ECKERTY, ESQUIRE
12734 Kenwood Lane, Suite 89
Fort Myers, FL 33907-5638

Strap No: 24-46-23-W3-00208.0040

Recording: \$ ~~18.50~~ 27.00
Documentary Stamps: \$ 0.70
Consideration: \$ 0.00

THIS WARRANTY DEED made this 28th day of June, 2019, by

BRADFORD J. BENSON, a single man,

whose post office address is 927 Prescott Street, Fort Myers Beach, Lee County, Florida 33931, hereinafter called the Grantor, to

BRADFORD J. BENSON, Trustee of The Bradford Joseph Benson Revocable Trust, dated June 28th, 2019, with full power and authority to protect, conserve, sell, lease, encumber, manage and dispose of the property described herein,

whose post office address is 927 Prescott Street, Fort Myers Beach, Lee County, Florida 33931, hereinafter called the Grantee.

WITNESSETH: That the Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the Grantee all that certain land, situate in Lee County, State of Florida, viz:

See attached "Exhibit "A"

SUBJECT TO EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD.

THIS PROPERTY IS NOT THE HOMESTEAD OF THE GRANTOR.

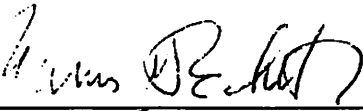
TOGETHER with all tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD the same in fee simple forever.

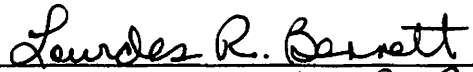
AND the Grantor hereby covenants with said Grantee that the Grantor is lawfully seized of said land is fee simple; that the Grantor has good right and lawful authority to sell and convey said land, and hereby warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing for the current year.

IN WITNESS WHEREOF, the said Grantor has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in the presence of:


Printed name: Thomas G. Eckerty

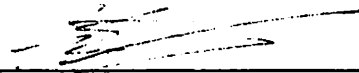

Bradford J. Benson


Printed name: Lourdes R. Bennett

STATE OF Florida)
) :
COUNTY OF Lee)

The foregoing instrument was acknowledged before me this 28th day of June, 2019, by Bradford J. Benson, who is personally known to me or who produced Drivers License as identification and who did/did not take an oath.

NOTARY STAMP OR SEAL


Kristen M. Eckerty, NOTARY PUBLIC
Commission No.: GG 275736
My Commission Expires: November 12, 2022

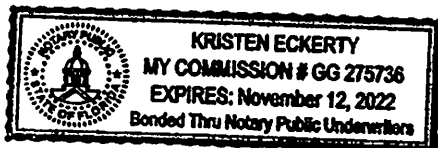


Exhibit "A"

All of Lots 4 and 5, Block 8, BUSINESS CENTER, according to the map or plat thereof on file and recorded in Plat Book 9, pages 9 and 10, public records of Lee County Florida. LESS AND EXCEPT THE FOLLOWING: Beginning at the Southwest corner of said Lot 4, Block 8, BUSINESS CENTER, thence Northerly along the Westerly line of said Lot 4 for 61.58 feet to the Northwest corner of said Lot 4; thence Easterly along the North line of Lot 4 for 7.0 feet; thence Southerly parallel to the West line of said Lot 4 for 13.0 feet; thence Westerly parallel to the North line of said Lot 4 for 5.0 feet; thence Southerly parallel to the West line of Lot 4 for 48.58 feet to the South line of said Lot 4; thence Westerly along the South line of said Lot 4 for 2.0 feet to the point of beginning. (Description per survey of Gerald W. Smith, Registered Land Surveyor, dated August 12, 1974). Also known as 1021 Estero Blvd., Ft. Myers Beach, Florida 33931.



Property Data

STRAP: 24-46-23-W3-00208.0040 Folio ID: 10127304

Tax Roll Value Letter 2025 ▾

Generated on 9/5/2025 1:36 PM

Owner Of Record - Sole Owner
[\[Change Mailing Address\]](#)


BRADFORD JOSEPH BENSON TRUST
 927 PRESCOTT ST
 FORT MYERS BEACH FL 33931

Site AddressSite Address maintained by [E911 Program Addressing](#)

1021 ESTERO BLVD
 FORT MYERS BEACH FL 33931

Property Description

Do not use for legal documents!



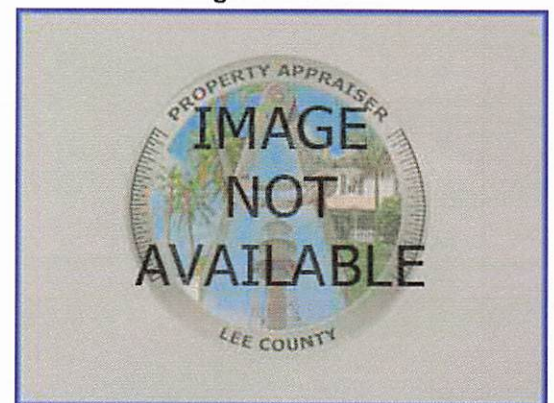
BUSINESS CENTER BLK.8 PB 9 PG 9 PT LOT 4 + ALL LOT 5

[View Recorded Plat at LeeClerk.org](#) - Use this link to do an Official Records search on the Lee County Clerk of Courts website, using 9 and 9 for the book and page numbers.

Attributes and Location Details

Total Bedrooms / Bathrooms 0
 1st Year Building on Tax Roll N/A
 Historic Designation No

Township	Range	Section	Block	Lot
46	23E	24	00208	0040
Municipality	Latitude	Longitude		
Town of Fort Myers Beach	26.45318	-81.95574		

[View Parcel on Google Maps](#)
[\[Tax Map Viewer \]](#)
[\[View Comparables \]](#)
[\[Pictometry Aerial Viewer \]](#)**Image of Structure****Property Values / Exemptions / TRIM Notices**

Generated on 9/5/2025 1:36 PM

No existing exemptions found for this property.

TRIM Notices	Tax Year	Just	Land	Market Assessed	Capped Assessed	Exemptions	Classified Use	1
2025 / Additional Info	2025 (TRIM Value)	3,576,750	3,576,750	3,576,750	3,576,750	0	0	
2024 / Additional Info	2024 (Final Value)	715,350	715,350	715,350	663,607	0	0	
2023 / Additional Info	2023 (Final Value)	603,279	603,279	603,279	603,279	0	0	
2022 / Additional Info	2022 (Final Value)	984,127	424,584	984,127	695,555	0	0	
2021 / Additional Info	2021 (Final Value)	863,249	401,502	863,249	632,323	0	0	
2020 / Additional Info	2020 (Final Value)	843,850	458,349	843,850	574,839	0	0	
2019 / Additional Info	2019 (Final Value)	822,596	476,900	822,596	522,581	0	0	
2018 / Additional Info	2018 (Final Value)	797,619	476,900	797,619	475,074	0	0	
2017 / Additional Info	2017 (Final Value)	575,678	286,140	575,678	431,885	0	0	
2016	2016 (Final Value)	574,966	286,140	574,966	392,623	0	0	
2015	2015 (Final Value)	356,930	190,760	356,930	356,930	0	0	
2014	2014 (Final Value)	359,400	190,760	359,400	359,400	0	0	
2013	2013 (Final Value)	370,223	190,760	370,223	370,223	0	0	
2012	2012 (Final Value)	372,693	190,760	372,693	372,693	0	0	
2011	2011 (Final Value)	450,201	190,760	450,201	450,201	0	0	
2010	2010 (Final Value)	510,652	238,450	510,652	510,652	0	0	
	2009 (Final Value)	574,130	297,600	574,130	574,130	0	0	
	2008 (Final Value)	679,810	396,800	679,810	679,810	0	0	
	2007 (Final Value)	624,430	396,800	0	624,430	0	0	
	2006 (Final Value)	629,750	396,800	0	629,750	0	0	
	2005 (Final Value)	419,030	297,600	0	419,030	0	0	
	2004 (Final Value)	462,060	297,600	0	462,060	0	0	
	2003 (Final Value)	360,000	297,600	0	360,000	0	0	
	2002 (Final Value)	204,790	141,360	0	204,790	0	0	
	2001 (Final Value)	207,660	143,210	0	207,660	0	0	
	2000 (Final Value)	143,600	86,170	0	143,600	0	0	
	1999 (Final Value)	137,060	78,730	0	137,060	0	0	
	1998 (Final Value)	135,480	76,250	0	135,480	0	0	
	1997 (Final Value)	144,210	76,250	0	144,210	0	0	
	1996 (Final Value)	145,220	76,250	0	145,220	0	0	
	1995 (Final Value)	146,230	76,250	0	146,230	0	0	
	1994 (Final Value)	147,250	76,250	0	147,250	0	0	
	1993 (Final Value)	148,260	76,250	0	148,260	0	0	
	1992 (Final Value)	149,280	76,250	0	149,280	0	0	

The **Just** value is the total parcel assessment (less any considerations for the cost of sale). This is the closest value to *Fair Market Value* we produce as of January 1st of the tax year in question (*F.A.C. 12D-1.002*).

The **Land** value is the portion of the total parcel assessment attributed to the land.

The **Market Assessed** value is the total parcel assessment (less any considerations for the cost of sale) based upon the assessment standard. Most parcels are assessed based either upon the *Highest and Best Use* standard or the *Present Use* standard (*F.S. 193.011*). For *Agriculturally Classified* parcels (or parcels with only agricultural uses are considered in the assessment (*F.S. 193.461 (6) (a)*). The difference between the *Highest and Best Use/Present Use* and the *Agricultural Exemption* is often referred to as the *Agricultural Exemption*.
(i.e. Market Assessed = Just - Agricultural Exemption)

The **Capped Assessed** value is the *Market Assessment* after any *Save Our Homes* or *10% Assessment Limitation* cap is applied. This assessment cap is applied to all properties and limits year-to-year assessment increases to either the *Consumer Price Index* or 3%, whichever is lower for Homestead properties OR 10% for non-Homestead properties.

The **Exemptions** value is the total amount of all exemptions on the parcel.

The **Taxable** value is the *Capped Assessment* after exemptions (*Homestead, etc.*) are applied to it. This is the value that most taxing authorities use to calculate a parcel's taxes.
(i.e. Taxable = Capped Assessed - Exemptions)

Land

Land Tracts

Use Code	Use Code Description	Number of Units	Unit of Measure
1000	Commercial, Vacant	4769.00	Square Feet

 Property Details (2025 TRIM)

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Land

Land Tracts

Use Code	Use Code Description	Number of Units	Unit of Measure
1000	Commercial, Vacant	4769.00	Square Feet

 Taxing Authorities

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 Sales / Transactions

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Building / Construction Permit Data

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Permit Number	Permit Type	Date
240859	Electric	03/28/2024
240217	Mobile Home	02/09/2024
220294	Building Remodel / Repair	02/24/2022
201408	Roof	10/09/2020
201316	Utilities	10/01/2020
FIR13-0063	Fire	10/28/2013
FIR13-0020	Fire	08/09/2013
PLB13-0004	Plumbing	01/23/2013
FIR12-0055	Fire	01/07/2013
FIR12-0059	Fire	01/04/2013

ELE10-0240	Electric	03/24/2011
FIR10-0023	Fire	01/05/2011
MEC10-0176	Building Remodel / Repair	01/03/2011
COM10-0220	Building Remodel / Repair	11/08/2010
COM2004-01616	Building Remodel / Repair	10/10/2006
COM2006-00454	Shutter, Awning	02/24/2006
COM2000-01131	Building Remodel / Repair	09/16/2002
COM2000-01922	Building Addition	12/18/2000
711225	Commercial	09/10/1987
600350	Commercial	01/14/1986
506259	Commercial	05/22/1985

IMPORTANT: THIS MAY NOT BE A COMPREHENSIVE OR TIMELY LISTING OF PERMITS ISSUED FOR THIS PROPERTY.

Note: The Lee County Property Appraiser's Office does not issue or maintain any permit information. The Building / Construction permit data displayed here represents only those records this Office may find necessary to conduct Property Appraiser business. Use of this information is with the understanding that in no way is this to be considered a comprehensive listing of permits for this or any other parcel.

The Date field represents the date the property appraiser received information regarding permit activity; it may or not represent the actual date of permit issuance or completion.

Full, accurate, active and valid permit information for parcels can only be obtained from the [appropriate permit issuing agency](#).

Parcel Numbering History ⓘ

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Solid Waste (Garbage) Roll Data

Generated on 9/5/2025 1:36 PM

Flood and Storm Information

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Flood Insurance [Find my flood zone](#)

Community	Panel	Version	Date	Evacuation Zone
071C	0554	G	11/17/2022	A

Generated on 9/5/2025 1:36 PM

[Previous Parcel Number](#)
[Next Parcel Number](#)
[New Query](#)
[Search Results](#)
[Home](#)



Lee County Tax Collector

Noelle Branning

Account Number:
24-46-23-W3-00208.0040

Alternate Key:
2100454862

Millage Code:
277

Site Address/Legal Description:

1021 ESTERO BLVD

BUSINESS CENTER BLK.8 PB 9 PG 9 PT LOT 4 +
ALL LOT 5

Ad Valorem Taxes and Non-Ad Valorem Assessments for Lee County, Florida

2024 Real Estate Tax Notice

Exemptions/Values

Market Value	715,350
Assessed Value	715,350
Taxable Value	663,607



SCAN
THIS CODE
to pay online
or visit
LeeTC.com/pay-online

★ See message below.

BRADFORD JOSEPH BENSON TRUST
927 PRESCOTT ST
FORT MYERS BEACH, FL 33931

Paid 12/03/2024 DP-00-02972875 \$8,800.04

Ad Valorem Taxes Levying Authority

	Telephone	Mill Rate	Assessed	Exemption	Taxable	Amount
LEE COUNTY GENERAL REVENUE	239-533-2221	3.7623	663.607	0	663.607	2,496.69
PUBLIC SCHOOL - BY LOCAL BOARD	239-337-8215	2.2480	715.350	0	715.350	1,608.11
PUBLIC SCHOOL - BY STATE LAW	239-337-8215	3.0380	715.350	0	715.350	2,173.23
TOWN OF FORT MYERS BEACH	239-765-0202	0.9900	663.607	0	663.607	656.97
SFL WATER MGMT-DISTRICT LEVY	561-686-8800	0.0948	663.607	0	663.607	62.91
SFL WATER MGMT-EVERGLADE CONST	561-686-8800	0.0327	663.607	0	663.607	21.70
SFL WATER MGMT-OKEECHOBEE LEVY	561-686-8800	0.1026	663.607	0	663.607	68.09
FORT MYERS BEACH FIRE CONTROL DISTRICT	239-590-4200	2.8000	663.607	0	663.607	1,858.10
FORT MYERS BEACH MOSQUITO	239-247-1205	0.1123	663.607	0	663.607	74.52
FORT MYERS BEACH LIBRARY	239-463-9691	0.1612	663.607	0	663.607	106.97
LEE COUNTY HYACINTH CONTROL	239-694-2174	0.0200	663.607	0	663.607	13.27
WEST COAST INLAND NAVIGATION DISTRICT	941-485-9402	0.0394	663.607	0	663.607	26.15

Non-Ad Valorem Assessments Levying Authority

Telephone	Rate	Basis	Amount
-----------	------	-------	--------

2024 Combined Total Ad Valorem and Non-Ad Valorem:

\$9,166.71

2024 Real Estate Tax Notice

PAY ONLY ONE AMOUNT

If Received By:

- ☐ Nov 30, 2024
☐
☐
☐
☐

Amount Due:

\$0.00

Phone/Email Contact: _____

For payment options and instructions, refer to the back of this notice.

Account: 24-46-23-W3-00208.0040

Site Address: 1021 ESTERO BLVD

Alternate Key: 2100454862

★ If the address below is not correct, visit LeePA.org to update your address.

BRADFORD JOSEPH BENSON TRUST
927 PRESCOTT ST
FORT MYERS BEACH, FL 33931

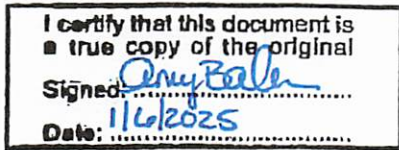
Make check payable to:
LEE COUNTY TAX COLLECTOR
PO BOX 1609
FORT MYERS, FL 33902-1609



Paid 12/03/2024 DP-00-02972875 \$8,800.04

Hearing Exhibit B

FEMA and Related Ordinances



U. S. Department of Homeland Security
Region 4
3005 Chamblee Tucker Road
Atlanta, GA 30341



FEMA

July 19, 2024

CERTIFIED MAIL RETURN RECEIPT REQUESTED

Andy Hyatt
Town Manager, Fort Myers Beach
2525 Estero Blvd
Fort Myers Beach, FL 33931

Re: National Flood Insurance Program Participation

Dear Mr. Hyatt:

I'd like to thank you and your staff for the long hours and hard work during the last two months to help correct the Town of Fort Myers Beach's compliance issues regarding the National Flood Insurance Program (NFIP). Our teams have made great progress in helping ensure Fort Myers Beach and their residents are more resilient and prepared for future storms.

Our team has completed its review of the town's compliance with the minimum floodplain management standards and everything that has been done to correct any deficiencies and violations.

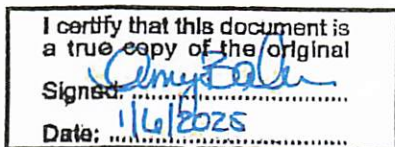
We acknowledge the work invested by your community has resulted in some improvements to meet minimum floodplain management standards. However, as the Town of Fort Myers Beach continues to recover from Hurricane Ian, FEMA finds that outstanding compliance issues remain. FEMA will not retrograde the town's class rating at this time.

Although FEMA will not retrograde the Town of Fort Myers Beach's class rating at this time, if the violations are not corrected or remedied by Nov. 18, FEMA's regulations (Title 44 Code of Federal Regulations 59.24(b) Suspension of Community Eligibility) require us to place the town on probation. This letter starts the official notification process. In addition, the town would no longer be eligible for Community Rating System participation and would be retrograded to Class 10 effective on April 1, 2025.

This letter and its attachments include FEMA's findings and our proposed next steps for the Town of Fort Myers Beach to remedy outstanding deficiencies and violations. These deficiencies and violations are described in the attached documents, specifically refer to the Status Report. To avoid probation in 121 days, the Town of Fort Myers Beach must correct deficiencies and remedy all identified violations to the maximum extent possible by Nov. 18.

You have my commitment of support as you work through these issues with your team.

www.fema.gov



A careful review of the data you provided since April shows that the implementation of the floodplain management program has several deficiencies that remain out of compliance. During the 60-day review period, the Town of Fort Myers Beach submitted additional permitting information for 105 structures in the floodplain.

Here is a summary of some of the items that the Town of Fort Myers Beach needs to remedy:

- Lack of permits for development in the Special Flood Hazard Area.
- Lack of maintaining permit records for development, new construction, or substantial improvements.
- Failure to make substantial improvement (SI) and substantial damage (SD) ("SI/SD") determinations.

FEMA staff reviewed each of the submitted permit packages and learned:

- 31% of the permit packages were complete.
- 20% need additional information.
- 2% needed a Community Assistance Visit follow up.
- 15% were ongoing in a Code Enforcement Case.
- 32% will be followed up on during a Future Compliance Engagement.

FEMA also found:

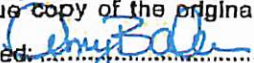
- 51 out of the 105 permit packages submitted did not include permits for structures that sustained documented damage.
- 76 of the 105 were missing itemized/detailed cost information for repair performed.
- 62 of the 105 had individual permits issued without total repair costs.

To avoid probation, the Town of Fort Myers Beach must complete the following items by close of business on Nov. 18. We encourage regular communication to share updates on your progress.

The town must remedy the following identified deficiencies:

1. Within 60 days of the date of this correspondence, September 16, 2024, develop and submit a plan that includes timelines and actions to address all identified program deficiencies and violations to the maximum extent possible.
2. Assess all floodplain development from Hurricane Ian in the Special Flood Hazard Area, ensuring that permits for all repairs, construction and development were obtained consistent with local floodplain management regulations:
 - a. From FEMA's April 8, 2024 letter:
 - i. Provide a status update for structures deemed Substantially Damaged on the list provided by the Town of Fort Myers Beach in accordance with the April 11, 2024, letter sent to the FEMA Region 4 Administrator.
 - ii. Provide evidence to support compliance action taken for the structures identified as having damage and FEMA identified as Future Compliance Engagement, Community Assistance Visit follow up, and additional information needed.

I certify that this document is
a true copy of the original

Signed: 

Date: 11/6/2025

- b. In addition to the above, provide an assessment of all floodplain development impacts from Hurricane Ian to structures in the Special Flood Hazard Area and provide a plan for remedying any identified violations.
3. Provide documentation that demonstrates your community is leveraging its code enforcement process to address new and existing code cases for all structures not confirmed as compliant. When a violation is confirmed, remedy to maximum extent possible. This includes:
 - a. In Item 2 above, structures identified during the evaluation as a Code Enforcement Case
 - b. Structures identified when assessing the Special Flood Hazard Area for all Hurricane Ian impacts to structures.
4. Put a process in place to ensure substantial damage compliance for future events.

You have my commitment to continue to support you and your team as you take the necessary compliance measures to avoid probation and possible suspension from the National Flood Insurance Program.

If you have any questions or at any time need technical assistance to address these issues, please contact FEMA Region 4 Office, Jacky Bell, Mitigation Division Director, at jacky.bell@fema.dhs.gov or 404-273-4710.

Sincerely,

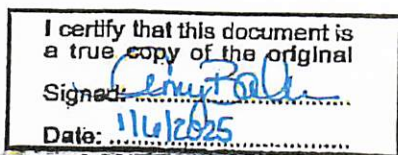


Robert D. Samaan
Regional Administrator

Attachments:

- Community Status Report
- Criteria for Avoiding Probation

cc: Kristin Schumacher, Floodplain Administrator
Jason Hunter, Region Floodplain Management & Insurance Branch Chief
Jillian Kraynak, Florida NFIP State Coordinator
Office of Sen. Marco Rubio
Office of Sen. Rick Scott
Office of Rep. Byron Donalds
Office of Rep. Greg Steube



FEMA

Town of Fort Myers Beach Post-Disaster Compliance Status Update Report

FEMA remains committed to helping communities take appropriate remediation actions to remain in good standing with the National Flood Insurance Program (NFIP) and participate in the Community Rating System (CRS).

The Town of Fort Myers Beach was granted 60 days (June 10, 2024), to submit to FEMA any new information related to the deficiencies and substantive violations detailed in FEMA's April 8, 2024 Findings Report. The April 8, 2024 Findings Report supported an initial decision by FEMA to retrograde the Town of Fort Myers Beach to a CRS class 10 community. In the Findings Report, FEMA also found program deficiencies and violations within the Town of Fort Myers Beach, which will serve as a basis for the current enforcement action and needed remediation.

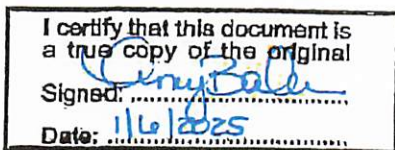
During the 60-day review period, the Town of Fort Myers Beach provided FEMA permit documentation for 105 sites. FEMA reviewed the submitted documentation, for the 105 sites as well as the Town of Fort Myers Beach's Narrative and supporting documentation.

After careful review of Town of Fort Myers Beach's submittal, FEMA finds that program deficiencies and substantive violations remain. Unfortunately, due to the deficiencies, the Town of Fort Myers Beach is being notified that they have until November 18, 2024 to address these deficiencies, or the Town will be placed on probation from the NFIP:

LIST OF PROGRAM DEFICIENCIES

Program Deficiencies are a defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of floodplain management regulations of the standards in 44 CFR 60.3; 60.4; 60.6; and NFIP Community Compliance Program Guidance, P-1022 (July 2016) in section 3.2.

- Failure of the community's "commitment to recognize and duly evaluate flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards in all official actions in the areas having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards and to take such other official action reasonably necessary to carry out the objectives of the program;" 44 CFR 59.22(8) and LDC CH 6, Art IV, Div 1, Sec 6-403(8).
- Failure to require permits for all proposed construction and development in the SFHA. 44 CFR 60.3(b)(1); 44 CFR 60.3(c)(1); 44 CFR 60.3(e)(1); FBC R101.2.1; FBC EB701.3; FBC 105.1; LDC CH 6, Art IV, Div 3, Sec 6-427; and LDC CH 6, Art IV, Div 6, Sec 6-461.
- Failure to maintain permit records for development, new construction, or substantial improvements in the SFHA. 44 CFR 59.22(a)(9)(iii); 44 CFR 60.3(b)(5)(iii); and 44 CFR 60.3(e)(2)(ii).
- Failure to make substantial improvement (SI) and substantial damage (SD) ("SI/SD") determinations and calculations for all proposed construction and development in the SFHA. 44 CFR 60.3(b)(1); 44 CFR 60.3(c)(1); 44 CFR 60.3(e)(1); LDC CH 6, Art IV, Div 3, Sec 6.428(1); and FEMA Substantial Improvement / Substantial Damage Desk Reference, P-758 (May 2010) ("SI/SD Desk Reference") in section 5.2.



- Y Failure to maintain SI/SD determination records for all proposed construction and development in the SFHA. 44 CFR 59.22(a)(9)(iii); 44 CFR 60.3(b)(5)(iii); 44 CFR 60.3(e)(2)(ii); and SI/SD Desk Reference in sections 4.2 and 7.7.
- Y Failure to keep records of permits, certifications, and variance actions. 44 CFR 59.22(a)(9)(iii).
- Y Failure to establish SI/SD procedures for administering and documenting determinations of SI/SD. LDC CH6, Art IV, Div 3, Sec 6.428(1) and FEMA Substantial Improvement / Substantial Damage Desk Reference, P-758 (May 2010) ("SI/SD Desk Reference") in sections 4.1, 4.3, & 7.1.
- Y Failure in permitting system, which allowed the use of "temporary" non-compliant structures (including shipping container and trailers/food trucks). LDC CH 6, Art IV, Div, 4, Sec 6.443 (3)&(4), LDC CH 6, Art IV, Div 6, and LDC CH 6, Art IV, Div 6, Sec 6.462, Sec 6.463, and LDC CH 6, Art IV Div 10, Sec 6-501.

1. Program deficiencies

Serious program deficiencies in a community's administrative and enforcement process and procedures are those that have resulted or could result in substantive violations that increase potential flood damages or stages in the community. The following deficiencies represent gaps in the Town's administrative process that restrict the ability to meet the minimum standards for participation.

Permitting of non-compliant structures/shipping containers/

Inconsistent Market Value	Missing Repair Permits (Known Damage (IA/Insurance))	Missing Detailed Cost Info	Low & Inadequate Labor Costs	Permits Issued Without Total Repair Costs	Failed To Capture Complete Scope of Work	After the Fact Permits	After the Fact Notice of Violation
1	51	76	8	62	65	16	25

2. List of properties determined to be substantially damaged:

The Town of Fort Myers Beach has submitted to FEMA a list of properties that Town of Fort Myers Beach deemed substantially damaged since the disaster; there were 356 structures listed. What actions has the Town taken or plan to take to follow-up on those structures? Please provide FEMA with a status of each structure to indicate how substantial damage is being addressed.

3. Non-compliant development

- a. Non-compliant structures (containers) and temporary structures have been placed in the Coastal High Hazard Area (VE zone and coastal A zone). Please provide a plan to remove the structures or bring the non-compliant structures or non-compliant additions into compliance; and confirmation that the town has stopped issuing permits for this type of non-compliant development.

b.

I certify that this document is
a true copy of the original
Signed: Cheryl Baker
Date: 11/6/2023



4. Data Dictionary (revised) – “Status” Column Meanings:

Additional Information Needed – Permit package needs additional information to be considered complete.

CAV Follow-Up – Not a Hurricane Ian issue but found a need for additional information during the next compliance follow-up with the community.

Code Enforcement Case – Community is currently processing as a code enforcement case and FEMA will accept and review case updates, follow-up permit information, and/or enforcement actions occurring prior to June 10, 2024. Actions occurring beyond that time will require future compliance engagement.

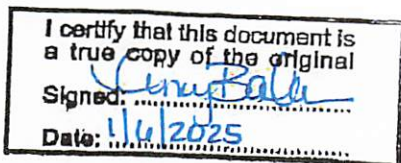
Complete – FEMA needs no further information regarding the specific address.

Future Compliance Engagement – Ian related activity. FEMA will follow-up on this site during the next compliance follow-up with the community.

5. Documentation on the Finding Report and Site list:

Attached to this document is a list of structures within the SFHA with violations, including the type of violation, status, and needed documentation.

Final Status (as of June 28, 2024)	Count
Additional Information Needed	21
CAV Follow-Up	2
Code Enforcement Case	16
Complete	32
Future Compliance Engagement	34
Grand Total	105



U.S. Department of Homeland Security
Washington, DC 20528



National Flood Insurance Program

Privacy Act Notice

RE: Town of Fort Myers Beach, FL, National Flood Insurance Program Data from the Federal Emergency Management Agency (FEMA)

The Town of Fort Myers Beach, FL is receiving data from the Federal Emergency Management Agency's that is maintained in support of the National Flood Insurance Program (NFIP). Specifically, the Town of Fort Myers Beach, FL is receiving property addresses identified by FEMA as possible violations to the local floodplain management laws and regulations. The community shall use the data to verify, monitor, and resolve the possible violation. As an NFIP participating community, this information will assist the community to ensure compliance with the NFIP and maintain the availability of flood insurance. FEMA will send the information to you securely via email on a password-protected spreadsheet or pdf.

FEMA discloses this to you pursuant to the "routine use" provision of the Privacy Act of 1974, 5 U.S.C. § 552a(b)(3), specifically under Routine Uses G, I, M, N, O, R and T of the System of Records Notice (SORN), DHS/FEMA-003 - National Flood Insurance Program Files 79 FR 28747 (May 19, 2014). The SORN may be electronically viewed at <https://www.gpo.gov/fdsys/pkg/FR-2014-05-19/html/2014-11386.htm>.

The Town of Fort Myers Beach, FL does not have permission to release the provided information to third parties, including third party contractors and will only use the data for the stated purpose. Unauthorized disclosure of FEMA data will result in an immediate denial of access to the FEMA data. Pursuant to the Privacy Act, 5 U.S.C. § 552a(e)(10), please destroy or return said personally identifiable information (PII) to FEMA once you no longer have use for it. PII is information that can be used to identify, by itself, or in combination, individuals by direct or indirect means.

In the event of a privacy incident resulting from this sharing of FEMA PII, Town of Fort Myers Beach, FL shall immediately, but in no event later than twenty-four (24) hours from suspicion, discovery or notification of the suspected or confirmed privacy incident, notify the FEMA Privacy Officer at (202) 212-5100 or FEMA-Privacy@fema.dhs.gov. FEMA will investigate the incident pursuant to DHS standard procedures and will consult the Town of Fort Myers Beach, FL to diagnose, mitigate and manage the privacy incident. The Town of Fort Myers Beach, FL will be responsible for carrying out all necessary measures to remedy the effects of the privacy incident.

By accepting the FEMA data, the Town of Fort Myers Beach, FL agrees that it shall bear all costs, losses and damages to the extent resulting from the City's breach of FEMA data. The Town of Fort Myers Beach, FL further agrees to release, defend, indemnify, and hold FEMA harmless for claims, losses, penalties and damages, and reasonable attorneys' fees and costs to the extent arising out of the Town of Fort Myers Beach, FL or its contractor's, negligence, unauthorized use or disclosure of FEMA PII and/or the Town of Fort Myers Beach, FL, or its contractor's, breach of its obligations under this sharing.

By accepting, receiving, downloading, or otherwise obtaining the routine use information or data discussed in this document, Town of Fort Myers Beach, FL understands, agrees, and accepts the terms of the use of the data as outlined in this document.

I certify that this document is
a true copy of the original

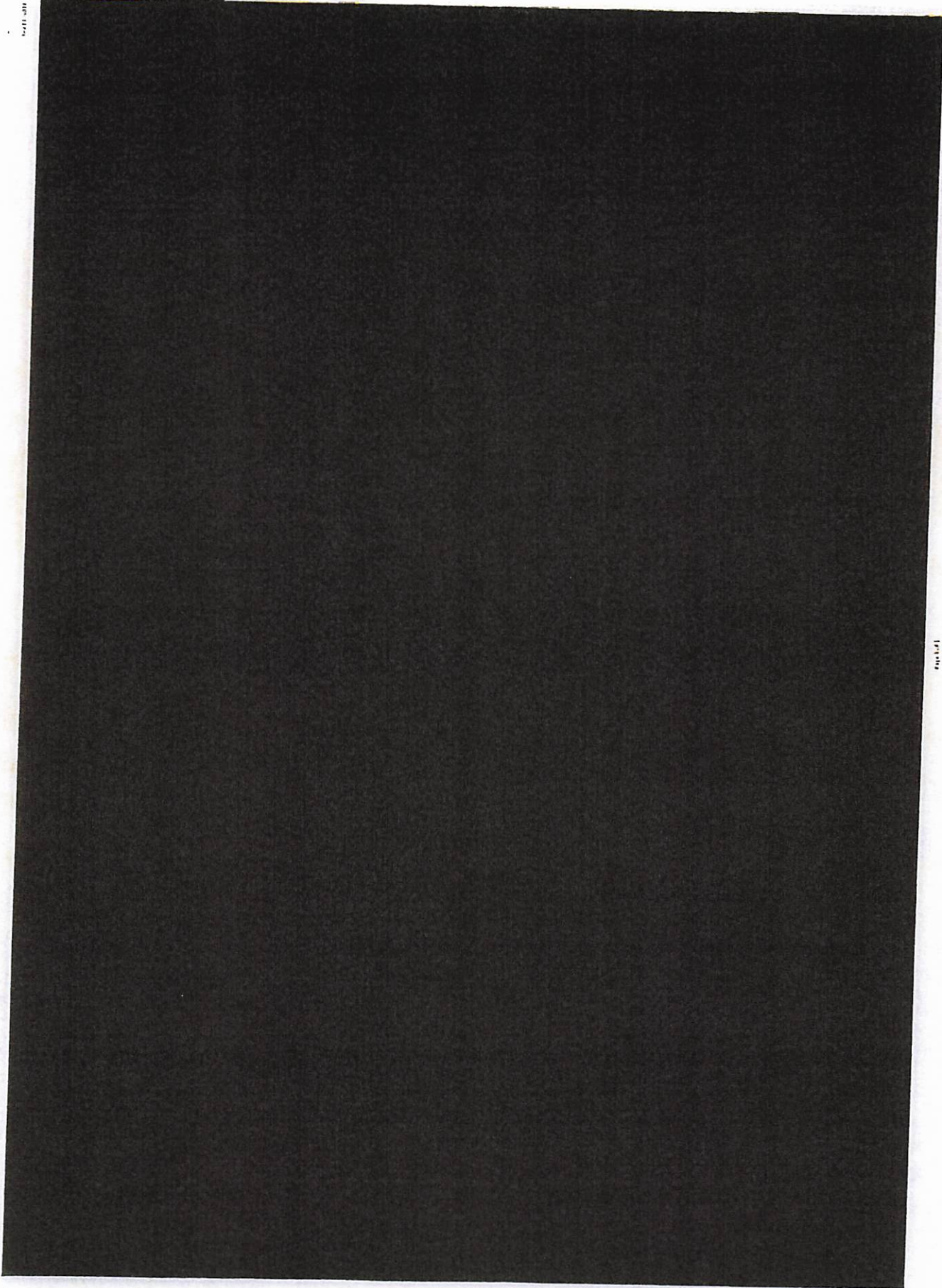
Signed: *[Signature]*

Date: 11/6/2025

I certify that this document is
a true copy of the original

Signed: Cindy Baker

Date: 11/6/2025



I certify that this document is
a true copy of the original

Signed: C. B. Baker

Date: 11/6/2025



I certify that this document is
a true copy of the original
Signed: Ami Ball
Date: 11/6/2024

FMBgov.com

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

VIA CERTIFIED U.S. MAIL AND ELECTRONIC MAIL

November 1, 2024

Federal Emergency Management Agency (FEMA)
U.S Department of Homeland Security
Region 4
3005 Chamblee Tucker Road
Atlanta, Georgia 30341

Attn: Robert D. Samaan
Regional Administrator
FEMA Region IV

RE: Removal of Shipping Containers and Temporary Structures
Town of Fort Myers Beach Post-Disaster Compliance Report

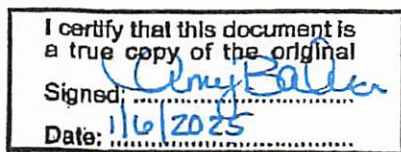
Dear Mr. Samaan,

The Town Council of the Town of Fort Myers Beach requested that we send this letter to you regarding the non-compliant structures (containers and temporary structures) in the Coastal High Hazard Area (VE zone and coastal A zone) referenced on page 2 of the Town of Fort Myers Beach Post-Disaster Compliance Status Update Report, dated July 19, 2024 ("Compliance Report"). The Compliance Report requires that the Town "provide a plan to remove the structures or bring the non-compliant structures or non-compliant additions into compliance" by November 18, 2024. The Town has been and continues to work diligently toward satisfying this requirement.

The most recent storms, Hurricanes Helene and Milton, have facilitated the removal of many of these containers and temporary structures. In fact, the recent removal of shipping containers and temporary structures as the impacts of these hurricanes threatened the Town, provided information regarding the ability to quickly disassemble

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | F. 239-765-0909 | 2731 Oak Street, Fort Myers Beach, FL 33931



and move shipping containers and temporary structures that was previously not available. For this reason, the Town Council gave direction to provide this information to you by letter.

More specifically, the owners of La Ola Surfside Restaurant, who use a 9'x 16' shipping container for a bar, were able to create a video demonstrating how quickly its shipping container could be disassembled and removed from its location on 1035 Estero Boulevard. The following is a link to the video, which has been widely circulated throughout the Fort Myers Beach Community.

https://drive.google.com/file/d/1vCB1leawpTJkXB1x877OIRInmTin2M8k9/view?usp=sharing_cil&ts=67237f46

La Ola Surfside Restaurant, as well as other businesses that temporarily operate out of shipping containers or other temporary structure, are important to the Fort Myers Beach community's recovery efforts immediately after these storms and since Hurricane Ian by providing a means to fulfill a basic human need: food.

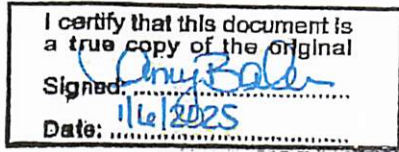
Moreover, as you are aware, the economy of a beach community such as Fort Myers Beach, is highly dependent on tourists, who visit the beach and support local businesses providing food service. In 2023-2024, the Town was awarded over \$1.5 million in tourist development dollars from the Lee County Tourist Development Board. These tourist dollars significantly assisted the Town with its recovery efforts post-Hurricane Ian and the delivery of municipal services to its residents.

In addition to tourists, the Town's economy is also highly dependent on its seasonal residents, who visit the Town from the fall through the end of spring each calendar year. Food service and other local businesses rely on the Town's seasonal residents as well as tourists to maintain operation during the winter season.

In view of the significant hardship on the operations of these businesses and the overall adverse economic impact on the Town, the Town is requesting your consideration to allow shipping containers and temporary structures, which are able to demonstrate that they can disassemble in a short period of time as evidenced in the La Ola Surfside Restaurant's video, to remain in place until June 1, 2025. An extension to June 1, 2025, would allow these local businesses to operate without interruption until the beginning of the next hurricane season.

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P. 239-765-0202 | F. 239-765-0909 | 2731 Oak Street, Fort Myers Beach, FL 33931



We appreciate your consideration of this request and look forward to discussing a limited extension of the November 18, 2024 deadline only for the removal of shipping containers and temporary structures, which can demonstrate the ability to quickly evacuate when a Hurricane Watch or Warning is issued to June 1, 2025. While this request is considered, the Town intends to continue its efforts achieve compliance with the November 18, 2024 deadline and removal of non-compliant shipping containers and temporary structures, such as La Ola Surfside Restaurant. Please do not hesitate to contact Frankie Kropacek, Operations & Compliance Director by phone at 239-955-3612 or by e-mail at fkropacek@fmbgov.com with any questions you may have. The Town looks forward to receiving a response to you regarding this request.

Sincerely,

Dan Allers, Mayor

Jim Atterholt, Vice Mayor

John R. King, Councilor

Karen Woodson, Councilor

Scott Safford, Councilor

Cc: Andrew Hyatt, Town Manager
Becky Vose, Town Attorney
Nancy Stuparich, Town Attorney
Amy Baker, Town Clerk
Frankie Kropacek, Operations & Compliance Director

FORT MYERS BEACH ESTERO ISLAND

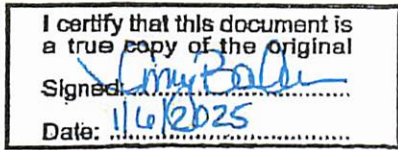
P. 239-765-0202 | F. 239-765-0909 | 2731 Oak Street, Fort Myers Beach, FL 33931

I certify that this document is
a true copy of the original

Signed:

Date:

Cathy Baker
11/6/2025



U. S. Department of Homeland Security
Region 4
3005 Chamblee Tucker Road
Atlanta, GA 30341



FEMA

November 12, 2024

The Honorable Dan Allers
Mayor, Town of Fort Myers Beach
2731 Oak Street
Fort Myers Beach, FL 33931

Re: Removal of Shipping Containers and Temporary Structures Town of Fort Myers Beach Post
Disaster Compliance Report

Dear Mayor Allers:

I received the letter from the Fort Myers Beach Town Council requesting an extension for the removal of non-compliant shipping containers and temporary structures located in the Special Flood Hazard Area and Coastal High Hazard Area.

While I understand and appreciate the importance of these structures to the Town's economy and recovery, the Code of Federal Regulations that governs the National Flood Insurance Program defines the development in question as structures – not recreational vehicles. Because of this, the fact that the structures can be removed pre-event is not relevant as those conditions apply to recreational vehicles only. There are no regulations for temporary structures and occupancy which means all development in the Special Flood Hazard Area must meet the NFIP minimum standards and local floodplain management regulations. FEMA is not able to issue exemptions to the NFIP minimum standards nor extend the existence of non-compliant development.

The purpose of these regulations is to protect lives and property in the Special Flood Hazard Area. These non-compliant structures are in the most 'at risk' flood area, VE zone, also known as the Coastal High Hazard Area, which received a 14-foot storm surge during Hurricane Ian. Allowing these structures to remain in place presents a hazard to residents and businesses in the event of another storm as demonstrated by Hurricanes Helene and Milton. For these reasons I am unable to grant the Town's request to allow the structures in question to remain in place beyond the current deadline.

I certify that this document is a true copy of the original
Signed: <u>Jacky Bell</u>
Date: <u>11/6/2025</u>

You have my commitment to continue to support you and your team as you manage Hurricane Ian recovery and as you work to take the necessary compliance measures to avoid probation and possible suspension from the NFIP. If you have any questions or at any time need technical assistance to address these issues, please contact FEMA Region 4 Office, Jason Hunter, Floodplain Management and Insurance Branch chief, at Jason.hunter@fema.dhs.gov or 770-220-5471.

Sincerely,

Jacky S. Bell
Mitigation Division Director

cc: Kevin Guthrie, Executive Director, Florida Division of Emergency Management



FEMA

November 21, 2024

Andy Hyatt, Manager
Town of Fort Myers Beach
2731 Oak Street
Fort Myers Beach, FL 33931

Re: National Flood Insurance Program Participation

Dear Mr. Hyatt:

Once again, I'd like to thank you and your staff for the long hours and hard work during the last several months to correct the Town of Fort Myers Beach's issues regarding the National Flood Insurance Program (NFIP). Our teams have made great progress in helping ensure the city and their residents are more resilient and prepared for future storms.

On July 19, 2024, the Town received a letter from this office indicating the potential of being placed in probationary status with the NFIP if certain conditions were not met. These conditions consisted of five action items to be completed by November 18, 2024.

These action items were:

1. Develop and submit a plan that includes actions and timelines to address all identified program deficiencies and violations to the maximum extent possible.
2. Assess all floodplain development from Hurricane Ian in the Special Flood Hazard Area, ensuring that permits for all repairs, construction and development were obtained consistent with local floodplain management regulations.
3. Provide documentation that demonstrates your community is leveraging its code enforcement process to address new and existing code cases for all structures not confirmed as compliant.
4. Put a process in place to ensure substantial damage compliance for future events.
5. Remove noncompliant structures that were incorrectly permitted and should not have been placed in the Special Flood Hazard Area.

We appreciate that the Town of Fort Myers Beach accomplished the first and fourth action items by submitting a plan to address deficiencies and establishing a process to ensure substantial damage compliance for future events.

However, our teams have identified additional work that needs to occur for items 2, 3 and 5.

The crosswalk assessment tool created has not been completed by town officials which prevents both items 2 and 3 from being completed. For the 5th item, the town also did not remove non-compliant structures that were incorrectly permitted and should not have been placed in the Special Flood Hazard Area.

We acknowledge the work invested by you and your team has resulted in some improvements to meet minimum floodplain management standards. However, because of the outstanding compliance issues remaining, **the Town will be placed on probation with the National Flood Insurance Program effective November 18, 2024.**

During this probationary period, flood insurance coverage will remain available within the Town of Fort Myers Beach; however, a \$50 surcharge will be added to the premium of each new and renewed flood insurance policy sold within the community. Probation will remain in effect until all remaining program deficiencies and violations have been corrected to the maximum extent possible. Effective April 1, 2025, the town will be retrograded to a Class 10 in the Community Ratings System and policy premium discounts will not be applied to new or renewing policies. The Town is not eligible to reapply to the Community Rating System for a higher-class rating until the Town's probationary period is concluded, the Town is in full compliance with the minimum requirements of the National Flood Insurance Program, and at least two years has passed since the Town was placed in probationary status.

I am committed and I've instructed my staff that we will continue to provide technical assistance to Fort Myers Beach to meet the required program standards and potentially end probation as soon as practicable.

If you have any questions or at any time need technical assistance to address these issues, please contact FEMA Region 4 Office, Jacky Bell, Mitigation Division Director, at jacky.bell@fema.dhs.gov or 404-273-4710.

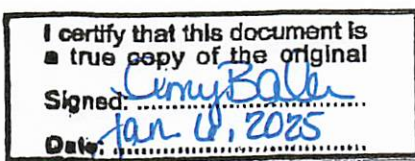
Sincerely,



Robert D. Samaan
Regional Administrator

cc:

Jason Hunter, Region Floodplain Management & Insurance Branch Chief
Jillian Kraynak, Florida NFIP State Coordinator



RESOLUTION NUMBER 24-296

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA ADOPTING A RESOLUTION TO REVOKE AND RESCIND EMERGENCY TEMPORARY PLACEMENT PERMITS AS PROVIDED AND AUTHORIZED IN SECTION 2 OF ORDINANCE 24-4 OF THE TOWN OF FORT MYERS BEACH, WHICH CLARIFIED ORDINANCE 23-05 RELATED TO TEMPORARY PLACEMENT PERMITS, IN FURTHERANCE AND IN SATISFACTION OF DIRECTION CONTAINED IN A LETTER DATED NOVEMBER 21, 2024 FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY ("FEMA") MANDATING REMOVAL OF NONCOMPLIANT STRUCTURES THAT WERE INCORRECTLY PERMITTED IN THE SPECIAL FLOOD HAZARD AREA, IN ORDER TO COMPLY WITH MINIMUM FLOODPLAIN STANDARDS AND THE REQUIREMENTS OF THE NATIONAL FLOOD INSURANCE PROGRAM; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article VIII, Section 2 of the State Constitution and Chapter 166 of the 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 services, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter empowers the Town Council to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, on September 28, 2022, Hurricane Ian made landfall north of the Town causing historical property damage and loss of life; and

WHEREAS, the Town Council recognized that recovery from a devastating natural disaster such as Hurricane Ian, created an immediate need for temporary housing, governmental services, and commercial uses for the Town's residents and adopted Ordinance 23-05 on May 15, 2023 to provide a temporary relief and the placement of certain structures in the Special Flood Hazard Area; and

WHEREAS, on May 6, 2024 the Town Council adopted Ordinance 24-04 amending and restating Ordinance 23-05 to clarify its intent at the time of adoption and to continue to provide temporary assistance to residents and to aid in the Town's redevelopment efforts by the emergency temporary placement of structures governmental, residential (manufactured homes, mobile homes, motor homes, recreational vehicles, or other temporary residential dwellings) or moveable commercial use; and

WHEREAS, both ordinances provided that permits issued under either Ordinance would be issued in increments of 6 months and would not exceed 18 months without demonstration of a hardship to the Town Manager; and

WHEREAS, Section 2 of Ordinance 24-04 further clarified that the Town Council intended permitted uses to be temporary in nature, and thereby subject to revocation and rescission at a future date under certain circumstances. More specifically, Paragraph 2 of Ordinance 24-04 identified several circumstances in which these temporary permitted uses required removal:

Unless otherwise provided in this Ordinance or in a Resolution that is adopted hereinafter 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 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. (Emphasis added).

WHEREAS, Section 2 of Ordinance 24-04(xi) also provided that the issued permit could be revoked for "noncompliance with applicable federal law/regulation, state law and town code"; and

WHEREAS, the number of outstanding temporary permits approved by the Town has decreased as a result of additional hurricanes impacting the Town subsequent to Hurricane Ian, the permitted rebuilding of destroyed properties; and the voluntary removal of the temporary permitted uses; and

WHEREAS, on July 19, 2024 and September 3, 2024, the Town was notified by the Federal Emergency Management Administration ("FEMA") that the Town would be placed on permanent probation from participation in the National Flood Insurance Program if it allowed structures needed for these temporary uses to continue subsequent to November 18, 2024 in the Special Flood Hazard Area; and

WHEREAS, Section 6-494 of the Town of Fort Myers Beach Land Development Code defines the Special Flood Hazard Area as "[a]n area in the floodplain subject to a one- percent or greater chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V. [Also defined in FBC, B Section 202.]", which in effect encompasses the entirety of the Town; and

WHEREAS, despite efforts by the Town Council to extend the November 18, 2024 FEMA deadline, the Town was notified by letter on November 21, 2024, that the Town was placed on probation with the National Flood Insurance Program effective November 18, 2024 in part due to its failure to "[r]emove noncompliant structures that were incorrectly permitted and should not have been placed in the Special Flood Hazard Area"; and

WHEREAS, in order to comply with minimum floodplain standards and the requirements of the National Flood Insurance Program, the Town must now revoke and rescind emergency temporary placement permits which allow noncompliant structures in the Special Flood Hazard Area; and

WHEREAS, the definition of a "structure" for floodplain management purposes pursuant to 44 CFR Part 59.1 includes "any walled and roofed building, manufactured home or travel trailer without wheels," and

WHEREAS, the definition of a "manufactured home" for floodplain management purposes pursuant to 44 CFR 59.1 is "a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle"; and

WHEREAS, adoption of this Resolution is in the best interest of the residents of the Town as a step towards removal of its probationary status in the National Flood Insurance Program and compliance with its floodplain regulations.

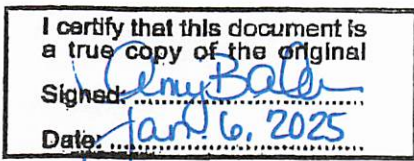
NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

Section 1. The foregoing "Whereas" clauses are ratified and confirmed as being true and correct, are the legislative and administrative findings of the Town Council and are made a specific part of this Resolution.

Section 2. All emergency temporary placement permits for "noncompliant structures that were incorrectly permitted and should not have been placed in the Special Flood Hazard Area" are hereby revoked and rescinded.

Section 3. The Town Manager is directed and authorized to immediately take the following actions to implement this Resolution:

1. Provide formal Notice to holders of any emergency temporary placement permit by certified mail, posting on the property and any other known method for notification that:
 - a) the permit is revoked and rescinded as of December 16, 2024; and
 - b) the permit holder may appeal this revocation action pursuant to Section 34-86 of the Code of Ordinances as stated in Section 4 of Ordinance 24-04, or by any other lawful means; and
 - c) the contact information for a member of the Town staff, who can answer questions and provide more information.



The Notice shall also include a copy of this Resolution and FEMA's letter of November 21, 2204

2. Initiate or continue any needed code enforcement action against permit holders who fail to immediately begin removal of noncompliant structures.

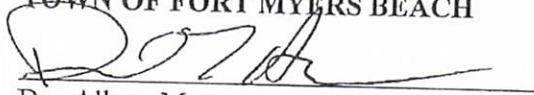
Section 4. This Resolution shall take effect immediately upon its adoption by the Town Council of the Town of Fort Myers Beach.

THE FOREGOING RESOLUTION was adopted by the Town Council upon motion by Mayor Allers and seconded by Vice Mayor Atterholt, and upon being put to a vote, the result was as follows:

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

APPROVED AND ADOPTED this 16th day of December 2024, by the Town Council of the Town of Fort Myers Beach, Florida.

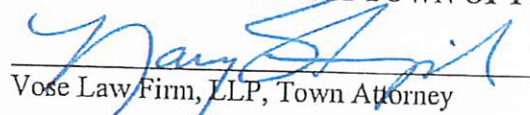
TOWN OF FORT MYERS BEACH


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, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 16th day of December 2024.



FEMA

July 24, 2025

The Honorable Will McKannay
Town Manager, Town of Fort Myers Beach
6231 Estero Blvd
Fort Myers Beach, FL 33931

Reference: National Flood Insurance Program (NFIP) Community Assistance Visit (CAV)
Report of Findings

Dear Mr. McKannay:

The purpose of this letter is to provide you with our findings from the CAV that the Federal Emergency Management Agency (FEMA) conducted from Tuesday, July 15, 2025, to Thursday, July 17, 2025. Thank you for the courtesy extended to Tamara Hansen, Pier Janrhett and Yuzzeff Henderson of FEMA Region 4 and Scott Gaines, of the Florida Department of Emergency Management (FDEM).

An introductory meeting was held by FEMA Specialists Tamara Hansen, Pier Janrhett, Yuzzeff Henderson Melendez, Scott Gaines with FDEM, yourself and members of the Town of Fort Myers Beach staff including Thomas Yozzo, Tracie Kohler, Kelly Defedericis, Frankie Kropacek, Georgina Cid, Shanette Thomas and Traci Raski. FEMA Region 4 Staff, Jacky Bell and Jason Hunter, Mr. Michael Burchette (FDEM) attended virtually. As stated during the meeting, we are very appreciative of the Town's efforts to prepare for the CAV and extended attendance of your staff for the duration of the CAV.

The purpose of this visit was to determine if the Town of Fort Myers Beach's floodplain management program is compliant with the minimum requirements of the National Flood Insurance Program. During this visit, outstanding sites identified in the Community Rating System (CRS) Retrograde appeal process in April 2024, were discussed. These sites were originally identified during field tours conducted in October and November 2023, following technical assistance visits after Hurricane Ian. During the permit reviews conducted as part of the CRS Retrograde appeal process, FEMA personnel identified various actions that were in violation of the Town's floodplain management program resulting in the community's probation from the National Flood Insurance Program. Subsequently, the Town was retrograded in CRS, effective April 1, 2025.

On April 28, 2025, the Town was notified that the requirement to be removed from probation under the NFIP had been met, effective November 18, 2025.

During the CAV, the Town of Fort Myers Beach's floodplain management program and the floodplain development permit process were reviewed and discussed. Additionally, a field tour was conducted to capture potential violations in the floodplain.

We have reviewed the Town's floodplain management regulations in Ordinance 24-03 and found that it meets the minimum requirement of the National Flood Insurance Program. We didn't find language adopting Limit of Moderate Wave Action requirements beyond the Florida Building Code, nor the state's accessory language which is based upon FEMA Policy #104-008-03. Please contact Scott Gaines at scott.gaines@em.myflorida.com if the Town is interested in adopting language related to either of these topics.

During the visit, the following programmatic deficiencies were identified and must be resolved:

1. Substantial Damage/Substantial Improvement Determination Process

○ *Concerns:*

- During the permit documentation review, evidence showed that permits were issued prior to a Substantial Damage/Substantial Improvement determination having been made by the Town, resulting in non-compliant structures that were potentially Substantial Damaged/Substantial Improved and repaired without being brought into compliance with the Town's floodplain management regulations.
- Additionally, the permitting staff who reviewed and issued permits didn't have access to Substantial Damage determinations list, which lead to permits being issued for structures that had been deemed to be Substantially Damaged, without ensuring the structures were brought into compliance with the Town's floodplain management regulations.
- Some of the cost to repair estimates seem to only include costs to repair damages located below the base flood elevation.
- In the Town's Substantial Damage Management Plan, November 2024-Draft, *Cost of Work Verification – Pre-Permit Issuance* section, it indicates that verification of repairs and associated cost to repair the structure will be accounted for before issuing a building permit.
-

○ *Corrective actions require:*

- On or before August 8, 2025, provide a Standard Operating Procedure that documents the Substantial Damage/Substantial Improvement Determination Process and the permitting process. This should include how determinations are shared with staff who process permit applications.

2. Floodplain reviews related to Private Providers

○ *Concerns:*

- The Town requires Under Construction Elevation Certificates to be submitted and approved, before the building's construction goes vertical.
- Private providers aren't complying with this requirement. Permits that were reviewed for documented structures well beyond this tie-beam inspection that had failed to submit Under Construction Elevation Certificates.
- Failure to take corrective actions can result in non-compliant structures being identified after construction has been completed.

○ *Corrective actions require:*

- On or before August 8, 2025, provide revised permitting process procedures and any supporting documentation that addresses failure by the Private Providers to meet the Town's requirement for submittal of the Under Construction Elevation Certificate.

3. The Town adopted the following ordinances to allow temporary placement of various types of units: "Temporary Placement of Emergency Uses, Manufactured Homes, Mobile Homes, Motor Homes, Recreational Vehicles Other Temporary Residential Dwelling or Temporary Moveable Commercial Units" (Ordinance 23-05), "Temporary Governmental, Residential (Manufactured Homes, Mobile Homes, Motor Homes, Recreational Vehicles Other Temporary Residential Dwellings) or Movable Commercial Uses following Natural Disasters or Other Emergencies" (Ordinance 24-04), and "RESOLUTION TO REVOKE AND RESCIND EMERGENCY TEMPORARY PLACEMENT PERMITS" (Resolution Number 24-296).

▪ *Concerns:*

- Ordinance 23-05 and 24-04 authorized installation of non-compliant temporary units.
- Resulted in numerous non-compliant temporary units. Some have been removed, while others are still present.
- Resolution Number 24-296 (approved December 16, 2024) "mandated removal of noncompliant structures that were incorrectly permitted," but numerous noncompliant structures remain in place.

▪ *Corrective actions require:*

- On or before August 8, 2025, remove the non-compliant temporary structures.

During the field tour, data for 252 sites was collected. The list of addresses includes sites that fall into the following categories: 1) non-compliant structures that need to be mitigated, 2) structures that require additional documentation to determine compliance, and 3) temporary structures that need to be elevated and anchored or removed. The list of site addresses with the required action/documentation are in the attached Site List.

Following the field tour, an exit meeting was held with the Town, FEMA, and FDEM staff on July 17, 2025. FEMA's findings of the community's floodplain management program and the floodplain development permit process were discussed. As stated in the meeting, we ask that you review each program deficiency and the attached site list. The deadline to submit the requested documents or documented actions is August 8, 2025.

We recommend that the staff who support the administration and enforcement of the Town's floodplain management program, including code enforcement staff, also attend floodplain management training courses. FEMA's National Disaster and Emergency Management University (NDEMU) and the Florida Floodplain Managers Association (FFMA) offer various floodplain management-related training courses for local officials. For your convenience, web addresses for NDEMU's and FFMA's website are provided below:

www.training.fema.gov
flfloods.org

We appreciate the Town of Fort Myers Beach's commitment to administering the NFIP. We would like to remind you that the requirement for participation in the CRS is your community's full compliance with the NFIP. Again, we request that the Town provide the requested documentation by August 8, 2025, for consideration of reinstatement to the CRS program on April 1, 2026. If your staff members have questions or require additional information, Ms. Tamara Hansen may be reached by telephone at (770) 220-5288 or by e-mail at tamara.hansen@fema.dhs.gov and Pier Janrhett may be reached by telephone at (202) 826-5655 or by e-mail at pier.janrhett@fema.dhs.gov.

Sincerely,

Jacky S. Bell
Director
Mitigation Division

Attachment: Site List

Cc: Ms. Jillian Kraynak, Florida NFIP State Coordinator
Ms. Traci Kohler, Deputy Town Manager, Town of Fort Myers Beach
Ms. Kelli Defedericis, Floodplain Administrator, Town of Fort Myers Beach
Mr. Tom Yozzo, Emergency Services Director, Town of Fort Myers Beach
Mr. Frankie Kropacek, Operations & Compliance Director, Town of Fort Myers Beach

HEARING

EXHIBIT

C

- Violated Regulations

Sec. 6-501. - Design and construction of buildings, structures and facilities exempt from the Florida Building Code.

Pursuant to ~~section 6-443~~, buildings, structures and facilities that are exempt from the Florida Building Code, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, must be designed and constructed in accordance with the flood load and flood-resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that are not walled and roofed buildings must comply with the requirements of division 10, subdivision VII.

(Ord. No. 16-02, § 2, 8-8-2016)

Sec. 6-525. - General requirements for other development.

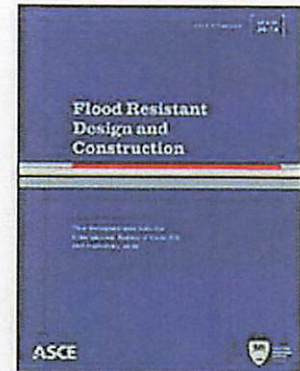
All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this article or the Florida Building Code, must:

- (1) Be located and constructed to minimize flood damage;
- (2) Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
- (3) Be constructed of flood damage-resistant materials; and
- (4) Have mechanical, plumbing and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

(Ord. No. 16-02, § 2, 8-8-2016)

HIGHLIGHTS OF ASCE 24-14 *Flood Resistant Design and Construction*

Published by the American Society of Civil Engineers (ASCE), *Flood Resistant Design and Construction*, ASCE 24, is a referenced standard in the *International Codes*[®] (I-Codes[®]). ASCE 24 states the minimum requirements and expected performance for the siting and design and construction of buildings and structures in flood hazard areas that are subject to building code requirements. Types of buildings and structures are described in ASCE 24-14, Table 1-1 (see page 5 of these Highlights), and include commercial, residential, industrial, educational, healthcare, critical facilities, and other occupancy types. Buildings and structures designed according to ASCE 24 are better able to resist flood loads and flood damage.



FEMA deems ASCE 24 to meet or exceed the minimum National Flood Insurance Program (NFIP) requirements for buildings and structures. ASCE 24 includes additional specificity, some additional requirements, and some limitations that are not in NFIP regulations.

Buildings and structures within the scope of the IBC and proposed to be located in any flood hazard area must be designed in accordance with ASCE 24. The 2015 I-Codes reference ASCE 24-14, while the 2006 through 2012 I-Codes reference ASCE 24-05. The *International Residential Code*[®] requires dwellings in floodways to be designed in accordance with ASCE 24, and the 2015 edition of the IRC allows use of ASCE 24 for dwellings in any flood hazard area (the 2012 and 2009 editions allow use of ASCE 24 in Coastal High Hazard Areas).

Highlights of ASCE 24-14 that complement the NFIP minimum requirements are described below.

A summary of significant technical revisions from ASCE 24-05 to ASCE 24-14 is reproduced on page 6 of these Highlights.

Building Performance

- Flood loads and other loads and load combinations are specified in ASCE 7-10, *Minimum Design Loads for Buildings and Other Structures*. Performance of foundations exposed to flooding is specified in ASCE 24. Soil characteristics and underlying strata, including soil consolidation, expansion or movement, erosion and scour, liquefaction and subsidence must be considered, as applicable.
- Flood Design Classes replace Occupancy/Risk Categories for the purpose of establishing elevations of lowest floors, flood-resistant materials, equipment and floodproofing. The 2015 *International Building Code* requires designers to identify the Flood Design Class assigned in accordance with ASCE 24-14.
- Elevation and Freeboard (additional height above the NFIP's base flood elevation) are specified as a function of the Flood Design Class and the nature of the flood hazard areas (see table on page 4 of these Highlights). Essential facilities (Flood Design Class 4) must be elevated or protected to the BFE + 2 ft or 500-year flood elevation, whichever is higher.
- Elevation requirements in Zone V and Coastal A Zones are independent of orientation of the lowest horizontal structural member (relative to direction of wave approach) as a factor in determining the required freeboard (ASCE 24-05 made elevation a function of orientation of the lowest horizontal structural member relative to the direction of wave approach).

ASCE 24 uses 'design flood' and 'design flood elevation' to acknowledge that some communities adopt flood hazard maps that depict flood hazard areas in addition to Special Flood Hazard Areas shown on FEMA's Flood Insurance Rate Maps (FIRM).

The design flood elevation (DFE) equals the base flood elevation (BFE) in communities that regulate based on FIRMs. The DFE is always equal to or higher than the BFE.

- Fill is required to be stable under conditions of flooding, including rapid rise and rapid drawdown, prolonged inundation, and erosion and scour. Compaction of structural fill is specified unless otherwise required by the building code or in a geotechnical or engineering report. Fill side slopes must be no steeper than 1:1.5.
- Two methods are specified to meet the requirements for flood openings in walls of enclosures below elevated buildings, to allow for the automatic entry and exit of floodwater: nonengineered openings that do not require certification (1 sq in per sq ft of enclosed area) and engineered openings that must be certified by a registered design professional. The performance of engineered openings must account for the presence of louvers, blades, screens, grilles, faceplates, or other covers and devices and must ensure that the difference between the exterior and interior floodwater levels does not exceed 1 foot. Installation of all flood openings must be in at least two walls and must be no more than 1 foot above the higher of the interior grade or floor and the finished exterior grade immediately under each opening.
- All breakaway walls in all flood hazard areas must have flood openings (ASCE 24-05 did not require flood openings in Zone V breakaway walls).
- Provisions are included for attached and detached decks and porches, and for garages, carports, and accessory storage structures.
- Provisions are listed for concrete slabs-on-grade, depending on the purpose and location of the slabs.
- Stairways and ramps must be designed and constructed to resist flood loads and to minimize transfer of flood loads to foundations, or to break away without causing damage to the main structure, or to be retractable/able to be raised.
- Where stairways are located inside areas enclosed with breakaway walls, exterior doors are required at the main building entry at the top of the stairs, to minimize entry of wind-driven rain and wave splash after breakaway walls have failed.
- In Coastal High Hazard Areas (Zone V) and Coastal A Zones:
 - Coastal A Zones are treated like Coastal High Hazard Areas if FEMA has delineated a Limit of Moderate Wave Action, or if the community has designated a Coastal A Zone.
 - Buildings must be supported on piles, drilled shafts, caissons, or other deep foundations (including columns, and shear walls) and foundation depth must take into account erosion and local scour.
 - Stem walls supporting floors and backfilled with soil or gravel are allowed in Coastal A Zones if designs provide for the effects of local scour and erosion.
 - Requirements are included for shallow foundations in circumstances where soil conditions prevent deep foundations.
 - Provisions are provided for pile foundations, attachment to piles, and different types of piles (wood, steel H, concrete-filled steel pipe, prestressed concrete, precast concrete, cast-in-place concrete).
 - Provisions are provided for pile design (capacity, capacity of supporting soils, minimum penetration, spacing, connections, splicing, and mixed and multiple types of piles).
 - Provisions are provided for footings, mats, rafts, slabs-on-grade, pile caps, grade beams, bracing, and shear walls.
 - Walls designed to break away must not produce debris that is capable of damaging structures.
 - Erosion control structures (bulkheads, seawalls, revetments) must not be attached to buildings or direct floodwater into or increase flood forces or erosion impacts on structures.
 - Pools must be elevated, or designed to breakaway without producing damaging debris, or designed to remain in the ground without obstructing flow that causes damage. Pools must be structurally independent of buildings and structures unless pools are located in or on elevated floors or roofs that are above the design flood elevation.

- Dry floodproofed nonresidential buildings and non-residential portions of mixed-use buildings:
 - The terms “mixed use” and “residential portions of mixed use” now are defined in Commentary.
 - Dry floodproofing measures are not permitted in Coastal High Hazard Areas, Coastal A Zones, High Risk Flood Hazard Areas, where flood velocities exceed 5 ft/sec, and where conformance with certain human intervention limits cannot be achieved.
 - At least one exit door or emergency escape/rescue opening must be provided above the elevation specified for dry floodproofing.
 - If dry floodproofing measures specified require human intervention to activate or implement, there must be a minimum warning time of 12 hours unless a community warning system provides a warning time sufficient to accomplish certain activities. If removable shields are approved as part of design, flood emergency plans must address specified elements and actions and must be posted in at least two conspicuous locations.

Flood Damage-Resistant Materials

- Flood damage-resistant materials must be used below specified elevations (see table on page 4).
- Metal connectors and fasteners exposed to salt water, salt spray or other corrosive agents must be stainless steel or equivalent corrosion resistant material, or hot-dipped galvanized after fabrication.
- Where preservative treated wood is required, treatment must be in accordance with AWP requirements.

Attendant Utilities and Equipment

- Attendant utilities and equipment must be at or above specified elevations (see table on page 4), or must be specifically designed, constructed, and installed to prevent floodwaters from entering or accumulating within components.
- Fuel supply lines must be equipped with float operated automatic shut-off valves.
- Where required to meet life safety provisions of the code, certain exterior electrical components may be installed below the design flood elevation, provided they are installed on a non-breakaway structural element on the landward or downstream side of structures.
- Tanks that are below the design flood elevation and that are attached to or beneath buildings must be installed and anchored to resist at least 1.5 times the potential buoyant and other flood forces assumed to act on empty tanks.
- Elevator cabs that descend below the design flood elevation must be equipped with controls that prevent the cab from descending into floodwaters. Elevator shafts must be designed to resist flood loads, but are not required to have flood openings or breakaway walls.

Siting Considerations

- New buildings must not be built (1) seaward of the reach of mean high tide, or (2) in areas subject to flash flooding (floodwaters rise to 3 feet or more above banks in less than 2 hours). Unless protected, new buildings must not be built (1) in erosion-prone areas (determined by analysis); or (2) in mudslide areas (determined by analysis); or (3) in certain portions of alluvial fan areas; or (4) in high velocity flow areas (faster than 10 ft/sec); or (5) in ice jam and debris areas.
- Buildings in proximity to flood protective works (dams, levees, floodwalls, diversions, channels, flood control structures) must not have adverse effects on, or conflict with, maintenance and repairs of those protective works.

Prepared by FEMA Building Science Branch. Content from ASCE 24-14 used with permission from ASCE. Purchase ASCE 24 at www.asce.org.

See next page for description of Flood Design Classes →

		Flood Design Class 1	Flood Design Class 2	Flood Design Class 3	Flood Design Class 4
Minimum Elevation* of Lowest Floor (Zone A: ASCE 24-14 Table 2-1)	Zone A not identified as Coastal A Zone	DFE	BFE +1 ft or DFE, whichever is higher	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, or 500-year flood elevation, whichever is higher
Minimum Elevation of Bottom of Lowest Horizontal Structural Member (Zone V: ASCE 24-14 Table 4-1)	Coastal High Hazard Areas (Zone V) and Coastal A Zone	DFE	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, whichever is higher	BFE +2 ft or DFE, or 500-year flood elevation, whichever is higher
Minimum Elevation Below Which Flood-Damage-Resistant Materials Shall be Used (Table ASCE 24-14 5-1)	Zone A not identified as Coastal A Zone	DFE	BFE +1 ft or DFE, whichever is higher	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, or 500-year flood elevation, whichever is higher
	Coastal High Hazard Areas (Zone V) and Coastal A Zone	DFE	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, whichever is higher	BFE +2 ft or DFE, or 500-year flood elevation, whichever is higher
Minimum Elevation** of Utilities and Equipment (ASCE 24-14 Table 7-1)	Zone A not identified as Coastal A Zone	DFE	BFE +1 ft or DFE, whichever is higher	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, or 500-year flood elevation, whichever is higher
	Coastal High Hazard Areas (Zone V) and Coastal A Zone	DFE	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, whichever is higher	BFE +2 ft or DFE, or 500-year flood elevation, whichever is higher
Minimum Elevation of Dry Floodproofing of non-residential structures and non-residential portions of mixed-use buildings (ASCE 24-14 Table 6-1)	Zone A not identified as Coastal A Zone	BFE +1 ft or DFE, whichever is higher	BFE +1 ft or DFE, whichever is higher	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, or 500-year flood elevation, whichever is higher
	Coastal High Hazard Areas (Zone V) and Coastal A Zone	Not permitted	Not permitted	Not permitted	Not permitted
Minimum Elevation of Wet Floodproofing*** (ASCE 24-14 Table 6-1)	Zone A not identified as Coastal A Zone; Coastal A Zone; Coastal High Hazard Areas (Zone V)	BFE +1 ft or DFE, whichever is higher	BFE +1 ft or DFE, whichever is higher	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, or 500-year flood elevation, whichever is higher
* Flood Design Class 1 structures shall be allowed below the minimum elevation if the structure meets the wet floodproofing requirements of ASCE 24-14 Section 6.3. ** Unless otherwise permitted by ASCE 24-14 Chapter 7 *** Only if permitted by ASCE 24-14 Section 6.3.1					

ASCE 24-14 Table 1-1 Flood Design Class of Buildings and Structures	
Use or Occupancy of Buildings and Structures	Flood Design Class
Buildings and structures that normally are unoccupied and pose minimal risk to the public or minimal disruption to the community should they be damaged or fail due to flooding. Flood Design Class 1 includes (1) temporary structures that are in place for less than 180 days, (2) accessory storage buildings and minor storage facilities (does not include commercial storage facilities), (3) small structures used for parking of vehicles, and (4) certain agricultural structures. [Note (a)]	1
Buildings and structures that pose a moderate risk to the public or moderate disruption to the community should they be damaged or fail due to flooding, except those listed as Flood Design Classes 1, 3, and 4. Flood Design Class 2 includes the vast majority of buildings and structures that are not specifically assigned another Flood Design Class, including most residential, commercial, and industrial buildings.	2
Buildings and structures that pose a high risk to the public or significant disruption to the community should they be damaged, be unable to perform their intended functions after flooding, or fail due to flooding. Flood Design Class 3 includes (1) buildings and structures in which a large number of persons may assemble in one place, such as theaters, lecture halls, concert halls, and religious institutions with large areas used for worship; (2) museums; (3) community centers and other recreational facilities; (4) athletic facilities with seating for spectators; (5) elementary schools, secondary schools, and buildings with college or adult education classrooms; (6) jails, correctional facilities, and detention facilities; (7) healthcare facilities not having surgery or emergency treatment capabilities; (8) care facilities where residents have limited mobility or ability, including nursing homes but not including care facilities for five or fewer persons; (9) preschool and child care facilities not located in one- and two-family dwellings; (10) buildings and structures associated with power generating stations, water and sewage treatment plants, telecommunication facilities, and other utilities which, if their operations were interrupted by a flood, would cause significant disruption in day-to-day life or significant economic losses in a community; and (11) buildings and other structures not included in Flood Design Class 4 (including but not limited to facilities that manufacture, process, handle, store, use, or dispose of such substances as hazardous fuels, hazardous chemicals, hazardous waste, or explosives) containing toxic or explosive substances where the quantity of the material exceeds a threshold quantity established by the authority having jurisdiction and is sufficient to pose a threat to the public if released. [Note (b)]	3
Buildings and structures that contain essential facilities and services necessary for emergency response and recovery, or that pose a substantial risk to the community at large in the event of failure, disruption of function, or damage by flooding. Flood Design Class 4 includes (1) hospitals and health care facilities having surgery or emergency treatment facilities; (2) fire, rescue, ambulance, and police stations and emergency vehicle garages; (3) designated emergency shelters; (4) designated emergency preparedness, communication, and operation centers and other facilities required for emergency response; (5) power generating stations and other public utility facilities required in emergencies; (6) critical aviation facilities such as control towers, air traffic control centers, and hangars for aircraft used in emergency response; (7) ancillary structures such as communication towers, electrical substations, fuel or water storage tanks, or other structures necessary to allow continued functioning of a Flood Design Class 4 facility during and after an emergency; and (8) buildings and other structures (including, but not limited to, facilities that manufacture, process, handle, store, use, or dispose of such substances as hazardous fuels, hazardous chemicals, or hazardous waste) containing sufficient quantities of highly toxic substances where the quantity of the material exceeds a threshold quantity established by the authority having jurisdiction and is sufficient to pose a threat to the public if released. [Note (b)]	4
[Note (a)] Certain agricultural structures may be exempt from some of the provisions of this standard; see ASCE 24-14 Section C1.4.3. [Note (b)] Buildings and other structures containing toxic, highly toxic, or explosive substances shall be eligible for assignment to a lower Flood Design Class if it can be demonstrated to the satisfaction of the authority having jurisdiction by a hazard assessment as described in ASCE 7-10 Section 1.5.3 of <i>Minimum Design Loads for Buildings and Other Structures</i> that a release of the substances is commensurate with the risk associated with that Flood Design Class.	

Significant Technical Revisions

ASCE 24-14 lists a number of significant technical revisions from the 2005 edition:

1. Defines *Flood Design Class* rather than use Risk/Occupancy Classification assigned under ASCE 7 and requires each building or structure governed by the standard to be assigned to Flood Design Class 1, 2, 3, or 4. Uses the assigned Flood Design Class to apply elevation requirements specified in Chapters 2, 4, 5, 6 and 7. Flood Design Class 4 buildings and facilities are equivalent to Occupancy Category/Risk Category IV buildings, which ASCE 7-10 identifies as essential facilities.
2. Adds definitions for *Mixed Use* and *Residential Portions of Mixed Use* in commentary to clarify limitations on use of dry floodproofing measures.
3. Changes the Coastal A Zone determination requirement from the designer's responsibility to one depending on either: 1) delineation of a Limit of Moderate Wave Action (LiMWA) on a Flood Insurance Rate Map, or 2) designation by the Authority Having Jurisdiction.
4. Separates specifications for flood openings from the installation requirements. Requires the presence of louvers, blades, screens, faceplates, or other covers and devices to be accounted for in determining net open area for non-engineered openings and in determining the performance of engineered openings. Revises coefficient of discharge table for engineered flood openings. Adds commentary regarding selection of coefficient of discharge and for grouping or stacking of flood openings.
5. For Flood Design Class 4 buildings, requires the minimum lowest floor elevation (or floodproofing level of protection) to be the higher of: the Base Flood Elevation plus freeboard specified in Chapters 2, 4 and 6, the Design Flood Elevation, or the 500-year flood elevation. The 500-year flood elevation requirement is new.
6. Clarifies text pertaining to alluvial fan high risk flood hazard areas.
7. In coastal high hazard areas (V Zone) and Coastal A Zones (if delineated):
 - a. Makes explicit that designs must account for local scour and erosion
 - b. Provides for shallow foundations in Coastal A Zones under certain circumstances
 - c. Requires flood openings in breakaway walls
 - d. Eliminates orientation of the lowest horizontal structural member as a factor to determine elevation for lowest floors, equipment, and flood damage-resistant materials
 - e. Requires exterior doors at the top of stairways that are located inside enclosed areas with breakaway walls
 - f. Consolidates requirements for all nonstructural concrete slabs
 - g. Allows substantial improvement of existing buildings seaward of the reach of mean high tide in V zones (makes ASCE 24 consistent with NFIP) and Coastal A Zones.
8. Updates flood damage-resistant material requirements.
9. Clarifies emergency escape and rescue opening requirements for dry floodproofed buildings.
10. Clarifies requirements for garages, carports, and accessory storage structures. Adds new section for multistory parking structures.
11. Consolidates requirements for tanks and more clearly distinguishes between requirements based on flood hazard area.