



Fort Myers Beach Charter Review Commission

Town Hall Council Chambers
6231 Estero Boulevard
Fort Myers Beach, FL 33931

Agenda

Tuesday, March 3, 2026

2:00 PM

AMENDED

ORDER OF BUSINESS

- I. CALL TO ORDER
- II. PLEDGE OF ALLEGIANCE
- III. ROLL CALL
- IV. PUBLIC COMMENT
- V. APPROVAL OF MINUTES

NEW A. Charter Review Commission - February 3, 2026

- VI. MEMBER ITEMS
- VII. OLD BUSINESS

- A. Articled VII. TOWN CLERK
Recap of Article VII TOWN CLERK from the February 3, 2026 meeting.
- B. Article IX. ADMINISTRATIVE DEPARTMENTS
Recap of Article IX ADMINISTRATIVE DEPARTMENTS from the February 3, 2026 meeting.
- C. ARTICLE X. ORDINANCES AND RESOLUTIONS
Recap of Article X. ORDINANCES AND RESOLUTIONS from the February 3, 2026 meeting.
- D. ARTICLE XI. FINANCIAL PROCEDURES
Recap of Article XI. FINANCIAL PROCEDURES from the February 3, 2026 meeting.
- E. Discussion/Suggestions/Notes from meeting to date from members to date
Discussions/Suggestions/Notes from meetings to date from members

VIII. NEW BUSINESS

- A. ARTICLE XII. INITIATIVE AND REFERENDUM
Review of Article XII of the Town Charter
- B. ARTICLE XIII. CHARTER AMENDMENTS
Review of Article XIII of the Town Charter

C. ARTICLE XIV. SEVERABILITY

Review of Article XIV of the Town Charter

NEW D. Discussion/Analysis of Possible Changes to Town Charter

IX. NEXT MEETING DATE - APRIL 7, 2026

X. ADJOURNMENT

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



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

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Fort Myers Beach Charter Review Commission

Town Hall Council Chambers
6231 Estero Boulevard
Fort Myers Beach, FL 33931
Tuesday, February 3, 2026

Minutes

2:00 PM

ORDER OF BUSINESS

I. CALL TO ORDER

Chair Dunlap called the meeting to order at 2:00 p.m.

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

Members present: Chair Jim Dunlap, Anita Cereceda, Michele Cherney, Beverly Milligan, Bryan Thomas, Ed Schoonover and Hank Zuba.

Staff: Town Clerk Amy Baker and Town Attorney Nancy Stuparich.

IV. PUBLIC COMMENT

No public comment.

V. APPROVAL OF MINUTES

A. Charter Review Commission — January 6, 2026

Mr. Thomas moved to approve the minutes, seconded by Mr. Zuba.
The motion carried unanimously.

VI. MEMBER ITEMS

A. CRC Member Dunlap

Blue Ribbon Committee

Finance Director Joe Onzick, who is present to discuss Article XI about financial procedures, has a commitment and cannot stay to the end. Chair Dunlap asked to bump him up after the Blue Ribbon Committee.

Mr. Zuba moved to move him up, seconded by Mr. Schoonover.

The motion carried unanimously.

Chair Dunlap clarified that the town council received the same COLAs as staff in 2024 and 2025, and that the baseline salaries were adjusted for the town council in 2024 and 2025. Benefits for the town council and colleagues were changed to a co-premium, which is added to their taxable income.

Chair Dunlap stated that the Blue Ribbon Committee will make a

recommendation on the town council's salaries. The Committee is advisory and will make recommendations only. Information regarding how the committee is being handled in Naples is in the agenda packet. Membership is not explicitly outlined, but it's highly encouraged to include those in areas such as finance and human resources.

Mr. Zuba noted that any Blue Ribbon Committee should also be subject to ex parte communications and a communication blackout. Chair Dunlap replied that members would have to attend a Sunshine Law class before the first meeting after being appointed. Mr. Zuba felt that appointment to the committee should occur after an election, so that no one is voting on their own salary increase.

Ms. Cherney suggested there should be membership restrictions and has not served on council for the past four years.

Ms. Cereceda did not think the membership structure should differ from the requirements for the town council. She noted it was not a resident-driven process because it was politically driven, since the public did not choose the members.

Town Attorney Stuparich indicated that ex parte communications would apply only to town council members because otherwise they would gain access to governmental appointees, officials, or staff. They should not be denying the public access to them. However, they provide for ex parte disclosures because a specific person's private property right might be affected by any action taken.

The ordinance would create the Blue Ribbon Committee and the final recommendation of the committee would go to the town council by requesting a resolution. Ms. Cereceda did not think it was their purview to propose an ordinance or resolution. She thought it would be part of the recommendation for a charter amendment, not legislative in nature. Ms. Cherney read the language in the Naples charter regarding their ordinance. Part of it says that seven residents are appointed by the city council to study and make recommendations on compensation and benefits for the mayor and council at least every four years.

Finance Director Onzick noted that if the information were presented to them no later than the end of June, that would be enough time for them to incorporate it into the budget.

VII. OLD BUSINESS

A. Article V. Nominations and Elections; Terms of Office

Recap of Article V. NOMINATIONS AND ELECTIONS; TERMS OF OFFICE from the January 6, 2026 meeting.

Town Attorney Stuparich clarified that, in her opinion, the term for an appointed vacancy expires at the next regular election. Chair Dunlap noted that the determining factor for other communities was the number of months left in the term, whether you had to run for election, or if they got the remaining term. Twenty-four or fewer, you went into the remaining term.

More than 24, you had to run for election for the next full term.
Chair Dunlap proposed language that says they will serve the remainder of the individual's term to which they have been appointed.

- B. Article VI. Town Manager
Recap of Article VI. TOWN MANAGER from the January 6, 2026 meeting
No change.
- C. Article VIII. Town Attorney
Recap of Article VIII. TOWN ATTORNEY from the January 6, 2026 meeting.
No change.
- D. Discussions/Suggestions/Notes from meetings to date from members to date
Discussions/Suggestions/Notes from meetings to date from members

VIII. NEW BUSINESS

- A. ARTICLE VII. TOWN CLERK
Review of Article VII of the Town Charter
7.01, Duties and Powers. Town Attorney Stuparich noted that an ordinance could be adopted to clarify the definition of books and journals, as well as any digital file that is an official record of the town.
- B. ARTICLE IX. ADMINISTRATIVE DEPARTMENTS
Review of Article IX of the Town Charter
9.01, Establishment of Additional Departments. No changes.
- C. ARTICLE X. ORDINANCES AND RESOLUTIONS
Review of Article X of the Town Charter
No changes.
- D. ARTICLE XI. FINANCIAL PROCEDURES
Review of Article XI of the Town Charter
11.02, Submission of a budget and budget message. Director Onzick noted that other municipalities referred to on or before the first town council meeting in August. That would give the finance department a couple more weeks to put the budget together. He suggested adding that the town manager shall submit a preliminary or proposed budget to the council. All members agreed. Town Attorney Stuparich suggested not removing "at suitable locations" at the end of the sentence: the budget would be available to the public at suitable locations.

IX. NEXT MEETING DATE - MARCH 3, 2026

Chair Dunlap will provide an outline of a protocol and process for April to begin synthesizing and codifying conversations. He will publish the final redline copy and ask that they look for material or significant changes that would alter the meaning for a different reader, rather than a personal preference. The draft

recommendations will be put together and the first outline will be prepared. Chair Dunlap suggested they could call another meeting in March if they find they need one after their March 3 meeting.

Ms. Cherney requested to appear remotely for the March 3 meeting.

Ms. Milligan would like to discuss that to run for council, you have to be homesteaded, even though that is not true. Town Attorney Stuparich will bring back the email she sent to the town council.

Mr. Zuba would like to discuss adding the ethics language he suggested.

X. ADJOURNMENT

(I didn't catch who adjourned and who seconded. A couple of men were speaking at the same time.)

DRAFT

The Town of Fort Myers Beach
Incorporated December 1995



CHARTER

Adopted (add adoption date)

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

ARTICLE I. CORPORATE NAME; PURPOSE OF THE CHARTER

Sec. 1.01. Town of Fort Myers Beach.

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

Sec. 1.02. Purpose of the charter.

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

ARTICLE II. TERRITORIAL BOUNDARIES

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

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

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

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

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

ARTICLE III. GENERAL POWERS OF THE MUNICIPALITY

Sec. 3.01. (Need title)

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

Sec. 3.02. Joint exercise of powers.

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

ARTICLE IV. CHARTER OFFICERS

Sec. 4.01. Council members; elections.

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

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

12/2/25 DISCUSSION ITEM: 4.01(b) Concerns regarding use of seat numbers and at-large elections.

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

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

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

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

Sec. 4.02. Mayor.

At the first regularly scheduled meeting following the town's regular election, the council, by majority vote, shall elect from its membership a mayor. The mayor shall serve as chairperson during meetings of the council and shall serve as the head of municipal government for the purpose of execution of legal documents as required by ordinance. The mayor shall also serve as the ceremonial head of the town.

(a) In non-election years the election of mayor and vice-mayor shall be at the first regularly scheduled meeting in November.

12/2/25 POLICY DISCUSSION ITEM: 4.02 Policy discussion regarding duration of service as Mayor.

In the absence of an election, the Mayor shall serve until the next election.
The Mayor may choose to leave the position with notice to Council.
The Council may vote by majority to select an alternative Council Member to serve as Mayor.
The Council may remove a sitting Mayor with a majority vote at any time.

**** Alt. Member Cherney will bring additional language to the January meeting for further discussion of the role of Mayor.**

1/6/2026 DISCUSSION:

4.03, 4.06 & 4.07

Member Cherney handouts (2)

Sec.4.03. Vice mayor.

At the first regularly scheduled meeting following the town’s regular election, the council, by a majority vote, shall elect from among its membership a vice mayor who shall serve as mayor during the absence or disability of the mayor and, if a vacancy occurs, shall become interim mayor pursuant to section 4.08 of this charter.

- (a) In non-election years the election of mayor and vice mayor shall be at the first regularly scheduled meeting in November.
- (b) Should the vice mayor become interim mayor, then, the council, by a majority vote, shall elect from its membership an interim vice mayor who shall serve as mayor during the absence or disability of the interim mayor.

Sec. 4.04. Prohibitions.

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

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

12/2/25 DISCUSSION ITEM: 4.04(b) After the cessation of the official's service.

Sec. 4.05. Compensation.

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

12/2/25 DISCUSSION ITEM: 4.05(a) Section 2-19 of Code of Ords. May require revision. service.

- Delete reference to salary amounts.
- Consider creating a Blue Ribbon Committee to evaluate salary amounts v. COLA.
- Reference to "salary" when Council members are not employees v. "compensation"

** Member Dunlap to provide language regarding Blue Ribbon Committee at January meeting.

RESEARCH: Council benefits in addition to compensation. (Health Insurance)
Input from HR? Cost of health care for Council?

1/5/26:

Member Dunlap to bring back at least two examples of Blue Ribbon Committees
Add in compensation and benefits.

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

Sec. 4.06. Vacancies.

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

12/2/25 DISCUSSION ITEM: 4.06 Vacancies need to be defined.

Add from Alt. Member Cherney's handout:

(a) Events Creating a Vacancy.

A vacancy in the office of a Council member shall occur upon:

1. Death, resignation, or removal from office;
2. Forfeiture of office under Section 4.07;

3. Loss of residency or failure to maintain qualifications;
4. Failure to assume office within 30 days of election or appointment;
5. Judicial determination of ineligibility or vacancy.

** Bring to January meeting: further discussion regarding due process for removal of office by Council.

** Define “unexcused absence”

Sec. 4.07. Forfeiture of office.

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

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

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

Sec. 4.08. Filling of vacancies.

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

time as the mayor resumes office or until the expiration of the term of the office, whichever occurs first.

1/6/2026:

How to protect the 3/2, 2/3 staggering?

Eliminate the seat numbering

Recommendation: table and return at start of agenda at February meeting. What does Town need to do to call a special election? (bring to Feb. meeting). Clarify w/SOE – 3 seats/3 candidates would they hold an election?

2/3/2026 – Appointee fills the remaining term of the seat.

Sec. 4.09. Judge of qualifications.

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

Sec. 4.10. Independent financial audit.

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

Sec. 4.11. Meetings.

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

ADDED at 12.2.25 meeting “as provided by law”

Sec. 4.12. Rules.

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

Sec. 4.13. Voting; quorum.

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

DISCUSSION ITEMS FROM JANUARY 6, 2026 MEETING:

Ad section to Charter re: Ex Parte disclosure. Member Zuba and Attorney to work on.

SUGGESTION (Cherney, for insertion under Article IV Mayor & Town Council)

“Elected officials shall disclose any contractual, financial, or business relationship with any individual or entity that conducts business within the Town or that is subject to Town regulation, permits, approvals, or operations. When a matter before the Council may directly or indirectly affect such a relationship, the official shall abstain from voting and from participating in discussion. The Town shall adopt procedures to ensure such disclosures and recusals are handled consistently”

ARTICLE V. NOMINATIONS AND ELECTIONS; TERMS OF OFFICE

Sec. 5.01. Elections.

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

1/6/2026 –

Last sentence,

Suggestion: “to be consistent with SOE” or remove by Florida Law.

Sec. 5.02. Commencement of Term.

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

Sec. 5.03. Terms of office.

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

1/6/2026

What happened to Sec. 5.04 & 5.05? Renumber Sec. 5?

2/3/2026 – DISCUSSION

Filling a vacancy for how long?

Fill out the remainder of the seat being filled?

If appointed you serve the remainder of the persons term.

Sec. 5.06. Nonpartisan elections.

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

Sec. 5.07. Multiple candidates.

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

Sec. 5.08. Recall.

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Town Charter

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

Sec. 5.09. Town canvassing board.

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

1/6 2026

Remove entire section 5.09

ARTICLE VI. TOWN MANAGER

Sec. 6.01. Appointment and qualifications.

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

Sec. 6.02. Removal.

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

Sec. 6.03. Powers and duties.

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

- (a) To hire or fill existing positions and, when the town manager deems it necessary for the good of the town service, suspend or remove town employees, except as otherwise provided by law or this charter.
- (b) To direct and supervise the administration of all employees, departments, and agencies of the town, except as otherwise provided by this charter or by law.
- (c) To attend all council meetings and shall have the right to take part in discussion but may not vote.
- (d) To ensure that all laws, provisions of this charter, and acts of the council, subject to enforcement by the town manager or by officers subject to the town manager's direction and supervision, are faithfully executed.
- (e) To submit to the council and make available to the public a complete report on the administrative activities of the town as of the end of each fiscal year.

- (f) To make such other reports as the council may require concerning the operation of town departments, offices, and agencies subject to the town manager's direction and supervision.
- (g) To keep the council fully advised as to the condition and future needs of the town and to make written recommendations to the council concerning the affairs of the town.
- (h) To perform the duties of town clerk in addition to the duties of town manager during any period of time so appointed by the council.
- (i) To perform such other duties as are specified in this charter or as may from time to time be assigned by the council.

1/6/2026 DISCUSSION ITEMS

Member Dunlap will speak with Town Manager and Deputy TM on roles/responsibilities.

ARTICLE VII. TOWN CLERK

Sec. 7.01. [Appointed by town manager; duties and powers.]

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

- (a) Give notice of council meetings to its members and the public.
- (b) Keep the journal and minutes of the proceedings of the council and its committees, which shall be public records.
- (c) Authenticate by signature and record in full in books kept for that purpose all ordinances and resolutions passed by the council.

2/3/2026 – adopt ordinance to clarify journal, signatures, books, etc.

- (d) Be the custodian of the town seal.
- (e) Have the power to administer oaths.
- (f) Perform such other duties as may be assigned by the town manager.

ARTICLE VIII. TOWN ATTORNEY

Sec. 8.01. [Appointed by town council; duties; removal procedure.]

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

ARTICLE IX. ADMINISTRATIVE DEPARTMENTS

Sec. 9.01. Establishment of additional departments.

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

2/3/2026 – ok

ARTICLE X. ORDINANCES AND RESOLUTIONS

Sec. 10.01. Definition of ordinances and resolutions.

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

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

Sec. 10.02. Adoption of ordinances.

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

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

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

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

Sec. 10.03. Adoption of resolutions.

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

ARTICLE XI. FINANCIAL PROCEDURES

Sec. 11.01. Fiscal year.

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

Sec. 11.02. Submission of budget and budget message.

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

2/3/26 – Per Joe Onzick, Finance Director “on or before the first Town Council meeting in August”

“a budget” change to “preliminary budget”

Sec. 11.03. Council action on the budget.

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

Sec. 11.04. Public records.

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

Sec. 11.05. Budget amendments.

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

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

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

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

2/3/26 – Interlocal is one word

ARTICLE XII. INITIATIVE AND REFERENDUM

Sec. 12.01. Initiative and referendum.

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

ARTICLE XIII. CHARTER AMENDMENTS

Sec. 13.01. Initiation by ordinance.

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

Sec. 13.02. Initiation by petition.

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

Sec. 13.03. Charter review.

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

ARTICLE XIV. SEVERABILITY

Sec. 14.01. Invalidity of character provision or application.

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

End of document.

The 2025 Florida Statutes

[Title XII](#)
MUNICIPALITIES

[Chapter 166](#)
MUNICIPALITIES

[View Entire Chapter](#)

166.031 Charter amendments.—

(1) The governing body of a municipality may, by ordinance, or the electors of a municipality may, by petition signed by 10 percent of the registered electors as of the last preceding municipal general election, submit to the electors of said municipality a proposed amendment to its charter, which amendment may be to any part or to all of said charter except that part describing the boundaries of such municipality. The governing body of the municipality shall place the proposed amendment contained in the ordinance or petition to a vote of the electors at the next general election held within the municipality or at a special election called for such purpose.

(2) Upon adoption of an amendment to the charter of a municipality by a majority of the electors voting in a referendum upon such amendment, the governing body of said municipality shall have the amendment incorporated into the charter and shall file the revised charter with the Department of State. All such amendments are effective on the date specified therein or as otherwise provided in the charter.

(3) A municipality may amend its charter pursuant to this section notwithstanding any charter provisions to the contrary. This section shall be supplemental to the provisions of all other laws relating to the amendment of municipal charters and is not intended to diminish any substantive or procedural power vested in any municipality by present law. A municipality may, by ordinance and without referendum, redefine its boundaries to include only those lands previously annexed and shall file said redefinition with the Department of State pursuant to the provisions of subsection (2).

(4) There shall be no restrictions by the municipality on any employee's or employee group's political activity, while not working, in any referendum changing employee rights.

(5) A municipality may, by unanimous vote of the governing body, abolish municipal departments provided for in the municipal charter and amend provisions or language out of the charter which has been judicially construed, either by judgment or by binding legal precedent from a decision of a court of last resort, to be contrary to either the State Constitution or Federal Constitution.

(6) Each municipality shall, by ordinance or charter provision, provide procedures for filling a vacancy in office caused by death, resignation, or removal from office. Such ordinance or charter provision shall also provide procedures for filling a vacancy in candidacy caused by death, withdrawal, or removal from the ballot of a qualified candidate following the end of the qualifying period which leaves fewer than two candidates for an office.

History.—s. 1, ch. 73-129; s. 1, ch. 86-95; s. 1, ch. 90-106; s. 43, ch. 90-315; s. 45, ch. 94-136.

CHARTER SECTION

NO CHANGES

INTERPRETATION

RESOLUTION

ORDINANCE

CHARTER CHANGE

ARTICLE I.	Corporate Name; Purpose of the Charter					
Sec. 1.01						
Sec. 1.02						
ARTICLE II	Territorial Boundaries					
Sec. 2.01						
Sec. 2.02						
ARTICLE III	General Powers of the Municipality					
Sec. 3.01						
Sec. 3.02						
ARTICLE IV	Charter Officers					
Sec. 4.01						
Sec. 4.02						
Sec. 4.03						
Sec. 4.04						
Sec. 4.05						
Sec. 4.06						
Sec. 4.07						
Sec. 4.08						
Sec. 4.09						
Sec. 4.10						
Sec. 4.11						
Sec. 4.12						
Sec. 4.13						
ARTICLE V	Nominations and Elections; Terms of Office					

Sec. 5.01						
Sec. 5.02						
Sec. 5.03						
Sec. 5.04						
Sec. 5.05						
Sec. 5.06						
Sec. 5.07						
Sec. 5.07						
Sec. 5.08						
Sec. 5.09						
ARTICLE VI	Town Manager					
Sec. 6.01						
Sec. 6.02						
Sec. 6.03						
ARTICLE VII	Town Clerk					
Sec. 7.01						
ARTICLE VIII	Town Attorney					
Sec. 8.01						
ARTICLE IX	Administrative Departments					
Sec. 9.01						
ARTICLE X	Ordinances and Resolutions					
Sec. 10.1						
Sec. 10.2						
Sec. 10.3						
ARTICLE XI	Financial Procedures					

Sec. 11.1						
Sec. 11.2						
Sec. 11.3						
Sec. 11.4						
ARTICLE XII	Initiative and Referendum					
Sec. 12.01						
ARTICLE XIII	Charter Amendments					
Sec. 13.01						
Sec. 13.02						
Sec. 13.03						
ARTICLE XIV	Severability					
Sec. 14.01						

PROPOSED LANGUAGE FOR DISCUSSION

1. EX PARTE/GIFTS

Sec. 3.01. - All powers possible.

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

Pursuant to its municipal powers, the Town of Fort Myers Beach shall adopt ordinances to promote transparency and ethics in government by the adoption of a ordinance prohibiting the acceptance of unlawful gifts and disclosure of ex parte communications in quasi-judicial hearings.

Recommendation: _____

2. TERMS IN THE EVENT OF A VACANCY

Sec. 4.05. - Compensation.

(a) Effective April 1, 2016, base pay for the Mayor will be \$19,200 annually and Council Members will be \$16,800 annually as compensation for their services. Compensation shall be revised annually based on across-the-board adjustments budgeted for staff and administered at the same time as Town employees. No sooner than every 2 years, but not later than 4 years, a Compensation Committee, consisting of 5 residents appointed by the Town Council, shall make recommendations for compensation adjustments to Town Council. The first Compensation Committee shall be appointed and will make its recommendation to the Town Council no later than 3 months prior to the date of the next general election. Any action by the Town Council to change its compensation shall be effective as of the first day following the next regular election.

Recommendation: _____

3. TERMS IN THE EVENT OF A VACANCY

Sec. 4.08. - Filling of vacancies.

A vacancy on the council, except for the position of mayor, shall be filled by appointment by majority vote of the council members remaining, and said appointment shall be effective until the expiration of the term of the vacated seat. ~~a successor is chosen at the next regular election.~~ In the

event that a majority of the members are removed by death, disability, law, or forfeiture of office, the governor shall appoint an interim council that shall call a special election to be held within 45 days following the occurrence of the vacancies to elect a new council. In the event that the mayor becomes unable to fulfill the duties of office, ceases to be qualified, or is removed from office as provided by law or this charter, the vice mayor shall assume the full powers and duties of the mayor. The vice mayor shall assume the office of mayor for the remainder of the unexpired term as mayor. The vacant position of vice-mayor council vacancy thus created shall be filled at the next regularly scheduled meeting by the Town Council until the next selection of a vice-mayor. If the vacancy created is not temporary, the vacancy shall be filled by an interim appointment under the provisions of this charter. ~~, to be effective only until such time as the mayor resumes office or until the expiration of the term of the office, whichever occurs first.~~

Recommendation: _____

SUMMARY OF FLORIDA GIFT LAWS – National Association of Attorney Generals

1. Gift Made with Intent to Influence

112.313. Standards of Conduct for Public Officers, Employees of Agencies, and Local Government Attorneys

(2) Solicitation or acceptance of gifts. — No public officer, employee of an agency, local government attorney, or candidate for nomination or election shall solicit or accept anything of value to the recipient, including a gift, loan, reward, promise of future employment, favor, or service, based upon any understanding that the vote, official action, or judgment of the public officer, employee, local government attorney, or candidate would be influenced thereby.

Fla. Stat. Ann. § 112.313(2).

838.016. Unlawful Compensation or Reward for Official Behavior

(2) It is unlawful for any person to knowingly and intentionally give, offer, or promise to any public servant, or, if a public servant, to knowingly and intentionally request, solicit, accept, or agree to accept, any pecuniary or other benefit not authorized by law for the past, present, or future exertion of any influence upon or with any other public servant regarding any act or omission which the person believes to have been, or which is represented to him or her as having been, either within the official discretion of the other public servant, in violation of a public duty, or in performance of a public duty.

Fla. Stat. § 838.016(2).

2. Extra Compensation for Official Duties

112.313. Standards of Conduct for Public Officers, Employees of Agencies, and Local Government Attorneys

(4) Unauthorized compensation. — No public officer, employee of an agency, or local government attorney or his or her spouse or minor child shall, at any time, accept any compensation, payment, or thing of value when such public officer, employee, or local government attorney knows, or, with the exercise of reasonable care, should know, that it was given to influence a vote or other action in which the officer, employee, or local government attorney was expected to participate in his or her official capacity.

Fla. Stat. Ann. § 112.313(4).

838.016. Unlawful Compensation or Reward for Official Behavior

(1) It is unlawful for any person to knowingly and intentionally give, offer, or promise to any public servant, or, if a public servant, to knowingly and intentionally request, solicit, accept, or agree to accept, any pecuniary or other benefit not authorized by law, for the past, present, or future performance, nonperformance, or violation of any act or omission which the person believes to have been, or the public servant represents as having been, either within the official discretion of the public servant, in violation of a public duty, or in performance of a public duty. This section does not preclude a public servant from accepting rewards for services performed in apprehending any criminal.

Fla. Stat. § 838.016(1).

3. Gift Regardless of Giver Status

No current state statute or regulation falls under the category of “Gift Regardless of Giver’s Status.”

4. Gift from Lobbyist or Regulated Entity

112.3215. Lobbying Before the Executive Branch or the Constitution Revision Commission; Registration and Reporting; Investigation by Commission

(6)(a) Notwithstanding s. 112.3148, s. 112.3149, or any other provision of law to the contrary, no lobbyist or principal shall make, directly or indirectly, and no agency official, member, or employee shall knowingly accept, directly or indirectly, any expenditure.

Fla. Stat. Ann. § 112.3215(6).

1. For the purposes of this section:

1. (d) “Expenditure” means a payment, distribution, loan, advance, reimbursement, deposit, or anything of value made by a lobbyist or principal for the purpose of lobbying. The term “expenditure” does not include contributions or expenditures reported pursuant to chapter 106 or contributions or expenditures reported pursuant to federal election law, campaign-related personal services provided without compensation by individuals volunteering their time, any other contribution or expenditure made by or to a political party or an affiliated party committee, or any other contribution or expenditure made by an organization that is exempt from taxation under 26 U.S.C. s. 527 or s. 501(c)(4).

Fla. Stat. Ann. § 112.3215(1)(d).

11.045. Lobbying Before the Legislature; Registration and Reporting; Exemptions; Penalties

(4)(a) Notwithstanding s. 112.3148, s. 112.3149, or any other provision of law to the contrary, no lobbyist or principal shall make, directly or indirectly, and no member or employee of the Legislature shall knowingly accept, directly or indirectly, any expenditure, except floral arrangements or other celebratory items given to legislators and displayed in chambers the opening day of a regular session.

Fla. Stat. Ann. § 11.045(4).

See also Fla. Stat. Ann. §§ 112.3148, 112.3149.

112.3148. Reporting and Prohibited Receipt of Gifts by Individuals Filing Full or Limited Public Disclosure of Financial Interests and by Procurement Employees

1. The provisions of this section do not apply to gifts solicited or accepted by a reporting individual or procurement employee from a relative.
2. As used in this section:
 1. (a) “Immediate family” means any parent, spouse, child, or sibling.
 2. (b)
 1. “Lobbyist” means any natural person who, for compensation, seeks, or sought during the preceding 12 months, to influence the governmental decision making of a reporting individual or procurement employee or his or her agency or seeks, or sought during the preceding 12 months, to encourage the passage, defeat, or modification of any proposal or recommendation by the reporting individual or procurement employee or his or her agency.
 2. With respect to an agency that has established by rule, ordinance, or law a registration process for persons seeking to influence decision making or to encourage the passage, defeat, or modification of any proposal or recommendation by such agency or an employee or official of the agency, the term “lobbyist” includes only a person who is required to be registered as a lobbyist in accordance with such rule, ordinance, or law or who was during the preceding 12 months required to be registered as a lobbyist in accordance with such rule, ordinance, or law. At a minimum, such a registration system must require the registration of, or must designate, persons as “lobbyists” who engage in the same activities as require registration to lobby the Legislature pursuant to s. 11.045.

3. (c) "Person" includes individuals, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.
 4. (d) "Reporting individual" means any individual, including a candidate upon qualifying, who is required by law, pursuant to s. 8, Art. II of the State Constitution or s. 112.3145, to file full or limited public disclosure of his or her financial interests or any individual who has been elected to, but has yet to officially assume the responsibilities of, public office. For purposes of implementing this section, the "agency" of a reporting individual who is not an officer or employee in public service is the agency to which the candidate seeks election, or in the case of an individual elected to but yet to formally take office, the agency in which the individual has been elected to serve.
 5. (e) "Procurement employee" means any employee of an officer, department, board, commission, council, or agency of the executive branch or judicial branch of state government who has participated in the preceding 12 months through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, or auditing or in any other advisory capacity in the procurement of contractual services or commodities as defined in s. 287.012, if the cost of such services or commodities exceeds or is expected to exceed \$10,000 in any fiscal year.
 6. (f) "Vendor" means a business entity doing business directly with an agency, such as renting, leasing, or selling any realty, goods, or services.
3. A reporting individual or procurement employee is prohibited from soliciting any gift from a vendor doing business with the reporting individual's or procurement employee's agency, a political committee as defined in s. 106.011, or a lobbyist who lobbies the reporting individual's or procurement employee's agency, or the partner, firm, employer, or principal of such lobbyist, where such gift is for the personal benefit of the reporting individual or procurement employee, another reporting individual or procurement employee, or any member of the immediate family of a reporting individual or procurement employee.
 4. A reporting individual or procurement employee or any other person on his or her behalf is prohibited from knowingly accepting, directly or indirectly, a gift from a vendor doing business with the reporting individual's or procurement employee's agency, a political committee as defined in s. 106.011, or a lobbyist who lobbies the

reporting individual's or procurement employee's agency, or directly or indirectly on behalf of the partner, firm, employer, or principal of a lobbyist, if he or she knows or reasonably believes that the gift has a value in excess of \$100; however, such a gift may be accepted by such person on behalf of a governmental entity or a charitable organization. If the gift is accepted on behalf of a governmental entity or charitable organization, the person receiving the gift shall not maintain custody of the gift for any period of time beyond that reasonably necessary to arrange for the transfer of custody and ownership of the gift.

5. (5)

1. (a) A vendor doing business with the reporting individual's or procurement employee's agency; a political committee as defined in s. 106.011; a lobbyist who lobbies a reporting individual's or procurement employee's agency; the partner, firm, employer, or principal of a lobbyist; or another on behalf of the lobbyist or partner, firm, principal, or employer of the lobbyist is prohibited from giving, either directly or indirectly, a gift that has a value in excess of \$100 to the reporting individual or procurement employee or any other person on his or her behalf; however, such person may give a gift having a value in excess of \$100 to a reporting individual or procurement employee if the gift is intended to be transferred to a governmental entity or a charitable organization.
2. (b) However, a person who is regulated by this subsection, who is not regulated by subsection (6), and who makes, or directs another to make, an individual gift having a value in excess of \$25, but not in excess of \$100, other than a gift that the donor knows will be accepted on behalf of a governmental entity or charitable organization, must file a report on the last day of each calendar quarter for the previous calendar quarter in which a reportable gift is made. The report shall be filed with the Commission on Ethics, except with respect to gifts to reporting individuals of the legislative branch, in which case the report shall be filed with the Office of Legislative Services. The report must contain a description of each gift, the monetary value thereof, the name and address of the person making such gift, the name and address of the recipient of the gift, and the date such gift is given. In addition, if a gift is made which requires the filing of a report under this subsection, the donor must notify the intended recipient at the time the gift is made that the donor, or another on his or her behalf, will report the gift under this subsection.

Under this paragraph, a gift need not be reported by more than one person or entity.

6. (6)

1. (a) Notwithstanding the provisions of subsection (5), an entity of the legislative or judicial branch, a department or commission of the executive branch, a water management district created pursuant to s. 373.069, South Florida Regional Transportation Authority, a county, a municipality, an airport authority, or a school board may give, either directly or indirectly, a gift having a value in excess of \$100 to any reporting individual or procurement employee if a public purpose can be shown for the gift; and a direct-support organization specifically authorized by law to support a governmental entity may give such a gift to a reporting individual or procurement employee who is an officer or employee of such governmental entity.
2. (b) Notwithstanding the provisions of subsection (4), a reporting individual or procurement employee may accept a gift having a value in excess of \$100 from an entity of the legislative or judicial branch, a department or commission of the executive branch, a water management district created pursuant to s. 373.069, South Florida Regional Transportation Authority, a county, a municipality, an airport authority, or a school board if a public purpose can be shown for the gift; and a reporting individual or procurement employee who is an officer or employee of a governmental entity supported by a direct-support organization specifically authorized by law to support such governmental entity may accept such a gift from such direct-support organization.
3. (c) No later than March 1 of each year, each governmental entity or direct-support organization specifically authorized by law to support a governmental entity which has given a gift to a reporting individual or procurement employee under paragraph (a) shall provide the reporting individual or procurement employee with a statement of each gift having a value in excess of \$100 given to such reporting individual or procurement employee by the governmental entity or direct-support organization during the preceding calendar year. Such report shall contain a description of each gift, the date on which the gift was given, and the value of the total gifts given by the governmental entity or direct-support organization to the reporting individual or procurement employee during the calendar year for which the

report is made. A governmental entity may provide a single report to the reporting individual or procurement employee of gifts provided by the governmental entity and any direct-support organization specifically authorized by law to support such governmental entity.

4. (d) No later than July 1 of each year, each reporting individual or procurement employee shall file a statement listing each gift having a value in excess of \$100 received by the reporting individual or procurement employee, either directly or indirectly, from a governmental entity or a direct-support organization specifically authorized by law to support a governmental entity. The statement shall list the name of the person providing the gift, a description of the gift, the date or dates on which the gift was given, and the value of the total gifts given during the calendar year for which the report is made. The reporting individual or procurement employee shall attach to the statement any report received by him or her in accordance with paragraph (c), which report shall become a public record when filed with the statement of the reporting individual or procurement employee. The reporting individual or procurement employee may explain any differences between the report of the reporting individual or procurement employee and the attached reports. The annual report filed by a reporting individual shall be filed with the financial disclosure statement required by either s. 8, Art. II of the State Constitution or s. 112.3145, as applicable to the reporting individual. The annual report filed by a procurement employee shall be filed with the Commission on Ethics. The report filed by a reporting individual or procurement employee who left office or employment during the calendar year covered by the report shall be filed by July 1 of the year after leaving office or employment at the same location as his or her final financial disclosure statement or, in the case of a former procurement employee, with the Commission on Ethics.

Fla. Stat. Ann. § 112.3148(1)-(6).

5. Definitions and Exceptions

Gift Defined and Definition Exceptions

(12)(a) “Gift,” for purposes of ethics in government and financial disclosure required by law, means that which is accepted by a donee or by another on the donee’s behalf, or that which is paid or given to another for or on behalf of a donee, directly, indirectly, or in trust

for the donee's benefit or by any other means, for which equal or greater consideration is not given within 90 days, including:

1. Real property.
2. The use of real property.
3. Tangible or intangible personal property.
4. The use of tangible or intangible personal property.
5. A preferential rate or terms on a debt, loan, goods, or services, which rate is below the customary rate and is not either a government rate available to all other similarly situated government employees or officials or a rate which is available to similarly situated members of the public by virtue of occupation, affiliation, age, religion, sex, or national origin.
6. Forgiveness of an indebtedness.
7. Transportation, other than that provided to a public officer or employee by an agency in relation to officially approved governmental business, lodging, or parking.
8. Food or beverage.
9. Membership dues.
10. Entrance fees, admission fees, or tickets to events, performances, or facilities.
11. Plants, flowers, or floral arrangements.
12. Services provided by persons pursuant to a professional license or certificate.
13. Other personal services for which a fee is normally charged by the person providing the services.
14. Any other similar service or thing having an attributable value not already provided for in this section.

(b) "Gift" does not include:

1. Salary, benefits, services, fees, commissions, gifts, or expenses associated primarily with the donee's employment, business, or service as an officer or director of a corporation or organization.
2. Except as provided in s. 112.31485, contributions or expenditures reported pursuant to chapter 106, contributions or expenditures reported pursuant to federal election law, campaign-related personal services provided without compensation

by individuals volunteering their time, or any other contribution or expenditure by a political party or affiliated party committee.

3. An honorarium or an expense related to an honorarium event paid to a person or the person's spouse.
4. An award, plaque, certificate, or similar personalized item given in recognition of the donee's public, civic, charitable, or professional service.
5. An honorary membership in a service or fraternal organization presented merely as a courtesy by such organization.
6. The use of a public facility or public property, made available by a governmental agency, for a public purpose.
7. Transportation provided to a public officer or employee by an agency in relation to officially approved governmental business.
8. Gifts provided directly or indirectly by a state, regional, or national organization which promotes the exchange of ideas between, or the professional development of, governmental officials or employees, and whose membership is primarily composed of elected or appointed public officials or staff, to members of that organization or officials or staff of a governmental agency that is a member of that organization.

(c) For the purposes of paragraph (a), "intangible personal property" means property as defined in s. 192.001(11)(b).

(d) For the purposes of paragraph (a), the term "consideration" does not include a promise to pay or otherwise provide something of value unless the promise is in writing and enforceable through the courts.

Fla. Stat. Ann. § 112.312.

- **Sec. 2-488. - Standard of conduct for town officials and employees.**

All town officials and employees shall adhere to the code of ethics for public officers and employees, adopted by the Florida Legislature as F.S. ch. 112, pt. III, as amended from time to time ("ethics code"). In the event of a conflict between any term, condition or requirement in this section and the ethics code, the ethics code shall be followed.

(1) *Failure to follow proper purchasing procedures.* It is a violation of this division for any employee to order, contract for, or purchase any materials, supplies, or services except in strict compliance with all purchasing procedures as provided herein or as established by the town manager or designee.

(2) *Solicitation or acceptance of gifts.* No town official or employee may solicit or accept anything of value from any vendor or bidder, including gift, loan, reward promise of future employment, favor, or service, based upon any understanding that the actions of said official or employee would be influenced thereby.

(3) *Doing business with the town.*

a. No employee or public official acting in his/her official capacity may either directly or indirectly purchase, rent, or lease any realty, goods, or services for the town from any business entity or which he/she or his/her spouse or child is an officer, partner, director, or proprietor or in which such official or employee or his/her spouse or child, or any combination of them, has a material interest.

b. No town official or employee, acting in a private capacity, may rent, lease, or sell any realty, goods, or services to the town.

(4) *Unauthorized compensation.* No town official or employee or his/her spouse or minor child may, at any time, accept any compensation payment, or thing of value when that person knows, or with the exercise of reasonable care, should know, that it was given to influence action in which the official or employee was expected to participate in his/her official capacity.

(5) *Conflicting employment or contractual relationship.* No town official or employee may have or hold any employment or contractual relationship with any business entity that is doing business with the town; provided however, that this section may not be construed to prevent any officer or employee from accepting any other employment or following any pursuit that does not interfere with the full and faithful discharge of the officer or employee's duties in his/her employment with the town.

(Ord. No. 17-01, § 1(Exh. A), 2-6-2017; Ord. No. [24-11](#), § 2(Exh. A), 5-6-2024)

(6) *Contingent fees.* No town official or employee may be retained, or retain a person, to solicit or secure a town contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee.

(7) *Confidential information.* No town official or employee may disclose or use any information not available to members of the general public and gained by reason of his/her official position for his/her personal gain or benefit of any other person or business entity.

(8) *Penalties.* Violation of any provision of this section may subject the officer or employee to discipline in the form of one or more of the following:

a. In the case of a town official:

1. Forfeiture of office as provided in the town Charter.
2. Restitution of any pecuniary benefit received because of the violation committed.

b. In the case of a town employee:

1. Dismissal from employment, provided that if the employee is found guilty of willful violation, then dismissal from employment is mandatory.
2. Suspension from employment for not more than 90 days without pay.
3. Demotion.
4. Reduction in salary level.
5. Oral or written reprimands or warnings.
6. Any discipline imposed shall be subject to the town's personnel rules.

(9) *Contracts voidable.* If a violation of any of the prohibitions contained in this section occurs, then the contract involved may, at the option of the town, be declared null and void or voidable.

I have read, understand and acknowledge the Town's purchasing policy and my responsibilities under this policy as a Town Employee. I acknowledge that if I have questions I will contact the Town Manager.

_____	_____
Name	Date

(Ord. No. 17-01, § 1(Exh. A), 2-6-2017; Ord. No. [24-11](#), § 2(Exh. A), 5-6-2024)

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FLORIDA STATUTES

286.0115 Access to local public officials; quasi-judicial proceedings on local government land use matters.—

(1)(a) A county or municipality may adopt an ordinance or resolution removing the presumption of prejudice from ex parte communications with local public officials by establishing a process to disclose ex parte communications with such officials pursuant to this subsection or by adopting an alternative process for such disclosure. However, this subsection does not require a county or municipality to adopt any ordinance or resolution establishing a disclosure process.

(b) As used in this subsection, the term “local public official” means any elected or appointed public official holding a county or municipal office who recommends or takes quasi-judicial action as a member of a board or commission. The term does not include a member of the board or commission of any state agency or authority.

(c) Any person not otherwise prohibited by statute, charter provision, or ordinance may discuss with any local public official the merits of any matter on which action may be taken by any board or commission on which the local public official is a member. If adopted by county or municipal ordinance or resolution, adherence to the following procedures shall remove the presumption of prejudice arising from ex parte communications with local public officials.

1. The substance of any ex parte communication with a local public official which relates to quasi-judicial action pending before the official is not presumed prejudicial to the action if the subject of the communication and the identity of the person, group, or entity with whom the communication took place is disclosed and made a part of the record before final action on the matter.

2. A local public official may read a written communication from any person. However, a written communication that relates to quasi-judicial action pending before a local public official shall not be presumed prejudicial to the action, and such written communication shall be made a part of the record before final action on the matter.

3. Local public officials may conduct investigations and site visits and may receive expert opinions regarding quasi-judicial action pending before them. Such activities shall not be presumed prejudicial to the action if the existence of the investigation, site visit, or expert opinion is made a part of the record before final action on the matter.

4. Disclosure made pursuant to subparagraphs 1., 2., and 3. must be made before or during the public meeting at which a vote is taken on such matters, so that persons who

have opinions contrary to those expressed in the ex parte communication are given a reasonable opportunity to refute or respond to the communication. This subsection does not subject local public officials to part III of chapter 112 for not complying with this paragraph.

(2)(a) Notwithstanding the provisions of subsection (1), a county or municipality may adopt an ordinance or resolution establishing the procedures and provisions of this subsection for quasi-judicial proceedings on local government land use matters. The ordinance or resolution shall provide procedures and provisions identical to this subsection. However, this subsection does not require a county or municipality to adopt such an ordinance or resolution.

(b) In a quasi-judicial proceeding on local government land use matters, a person who appears before the decisionmaking body who is not a party or party-intervenor shall be allowed to testify before the decisionmaking body, subject to control by the decisionmaking body, and may be requested to respond to questions from the decisionmaking body, but need not be sworn as a witness, is not required to be subject to cross-examination, and is not required to be qualified as an expert witness. The decisionmaking body shall assign weight and credibility to such testimony as it deems appropriate. A party or party-intervenor in a quasi-judicial proceeding on local government land use matters, upon request by another party or party-intervenor, shall be sworn as a witness, shall be subject to cross-examination by other parties or party-intervenors, and shall be required to be qualified as an expert witness, as appropriate.

(c) In a quasi-judicial proceeding on local government land use matters, a person may not be precluded from communicating directly with a member of the decisionmaking body by application of ex parte communication prohibitions. Disclosure of such communications by a member of the decisionmaking body is not required, and such nondisclosure shall not be presumed prejudicial to the decision of the decisionmaking body. All decisions of the decisionmaking body in a quasi-judicial proceeding on local government land use matters must be supported by substantial, competent evidence in the record pertinent to the proceeding, irrespective of such communications.

(3) This section does not restrict the authority of any board or commission to establish rules or procedures governing public hearings or contacts with local public officials.

History.—s. 1, ch. 95-352; s. 31, ch. 96-324.

- **Sec. 34-52. - Communications with public officials.**

(a) *Definitions.* The following terms and phrases, when used in this section, shall have these meanings:

Ex parte communication means any direct or indirect communication in any form, whether written, verbal or graphic, with the town council or local planning agency, by any person outside of a public hearing and not on the record, concerning substantive issues in any proposed or pending quasi-judicial action relating to appeals, variances, rezonings, special exceptions or any other quasi-judicial action assigned by statute, ordinance or administrative code.

Legislative action means the formulation of a general rule or policy, such as enacting a comprehensive plan or a comprehensive rezoning of multiple properties.

Public official means an elected or appointed member of a town board or commission that recommends or takes quasi-judicial actions, specifically including all members of the town council and the local planning agency. Members of the town staff are not public officials under this definition unless they also serve on a board or commission that recommends or takes quasi-judicial actions.

Quasi-judicial action means the application by the local planning agency or town council of a previously adopted general rule or policy that will have an impact on a limited number of persons or property owners, such as individual appeals, variances, rezonings and special exceptions.

Unrestricted communication means any communication by the public with public officials which are specifically allowed and encouraged, for instance, communications regarding the town budget or the general welfare of the community; or legislative actions such as proposed ordinances or general changes to the Fort Myers Beach Comprehensive Plan.

(b) Any person not otherwise prohibited by statute, charter provision, or ordinance may discuss with any local public official the merits of any matter on which action may be taken by any board or commission on which the public official is a member.

(1)

Except for quasi-judicial actions (such as appeals, variances, rezonings, and special exceptions), the town encourages unrestricted communications between all public officials and town residents, visitors, businesspeople, and property owners.

(2)

When discussions on pending quasi-judicial actions (such as administrative appeals, variances, rezonings, and special exceptions) take place prior to an advertised public hearing, the following procedures, which mirror those in F.S. § 286.0115(1), shall remove any presumption of prejudice arising from such ex parte communications with public officials:

a.

The substance of any ex parte communication with a public official which relates to quasi-judicial action pending before the official is not presumed prejudicial to the action if the subject of the communication and the identity of the person, group, or entity with whom the communication took place is disclosed and made a part of the record before final action on the matter.

b.

A public official may read a written communication from any person. However, a written communication that relates to quasi-judicial action pending before a public official shall not be presumed prejudicial to the action, and such written communication shall be made a part of the record before final action on the matter.

c.

Public officials may conduct investigations and site visits and may receive expert opinions regarding quasi-judicial action pending before them. Such activities shall not be presumed prejudicial to the action if the existence of the investigation, site visit, or expert opinion is made a part of the record before final action on the matter.

d.

Disclosure made pursuant to subsections a., b., and c. must be made before or during the public meeting at which a vote is taken on such matters, so that persons who have opinions contrary to those expressed in the ex parte communication are given a reasonable opportunity to refute or respond to the communication. This subsection does not subject public officials to the Code of Ethics for Public Officers and Employees (F.S. ch. 112, pt. III) for not complying with this subsection.