



Fort Myers Beach Town Council

**Council Chambers
2525 Estero Blvd.
Fort Myers Beach, FL 33931**

Agenda

Monday, March 15, 2021

9:00 AM

ORDER OF BUSINESS

- I. CALL TO ORDER**
- II. INVOCATION**
- III. PLEDGE OF ALLEGIANCE**
- IV. APPROVAL OF FINAL AGENDA**
- V. PUBLIC COMMENT**
- VI. PROCLAMATIONS**
 - A. Donate Life Month
Donate Life Month
- VII. LOCAL ACHIEVEMENTS AND RECOGNITIONS**
- VIII. ADVISORY COMMITTEES ITEMS AND REPORTS**
- IX. APPROVAL OF MINUTES**
 - A. Draft March 1, 2021 minutes
 - B. Draft March 1, 2021 minutes
- X. CONSENT AGENDA**
- XI. PUBLIC HEARINGS**
 - A. ORDINANCE NO. 21-03 Sea Turtle Conservation
First Reading and Public Hearing: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING ARTICLE V OF CHAPTER 32 OF THE CODE OF ORDINANCES OF THE TOWN OF FORT MYERS BEACH ENTITLED “SEA TURTLE CONSERVATION”, PROVIDING FOR SEVERABILITY; CODIFICATION; SCRIVENER’S ERRORS; CONFLICTS OF LAW AND AN EFFECTIVE DATE. Open the first public hearing and schedule for second reading and final adoption on April 5, 2021 at 9:00 a.m.

- B. Ordinance 21-01; Chapter 6 and 34 of Land Development Code
Second Reading and Final Public Hearing: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING CHAPTER 6 MAINTENANCE CODES, BUILDING CODES, AND COASTAL REGULATIONS OF THE LAND DEVELOPMENT CODE; AMENDING CHAPTER 34-1180 CREATING GARAGE DESIGN AND LOCATION STANDARDS; PROVIDING FOR SEVERABILITY; CODIFICATION; SCRIVENER'S ERRORS; CONFLICTS OF LAW AND PROVIDING AND AN EFFECTIVE DATE.
- C. Ordinance 20-18; Water Supply Facilities Work Plan
Second Reading and Final Public Hearing: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA ADOPTING AMENDMENTS TO THE TOWN OF FORT MYERS BEACH COMPREHENSIVE PLAN UTILITIES ELEMENT TO UPDATE DATA AND ANALYSIS AND THE GOALS, OBJECTIVES, AND POLICIES RELATED TO WATER SUPPLY PLANNING REQUIREMENTS OF CHAPTER 163, FLORIDA STATUTES; PROVIDING FOR SEVERABILITY; SCRIVENER'S ERRORS; CONFLICTS OF LAW AND PROVIDING FOR AN EFFECTIVE DATE.

XII. ADMINISTRATIVE AGENDA

- A. AARP Community Challenge Application Authorization
Authorize the Town Manager to apply for the AARP Community Challenge grant for \$91,000 to be used for Bayside Park's Redevelopment.
- B. Lighting Study Stakeholder Meeting Assignment of Representatives
To select/appoint members to represent the community as "Stakeholders" for a meeting to guide the Lighting Study.

XIII. FINAL PUBLIC COMMENT

XIV. TOWN MANAGER'S ITEMS

- A. Bicycle Signage
- B. Beach Bucket Foundation

XV. TOWN ATTORNEY'S ITEMS

XVI. COUNCILMEMBERS ITEMS AND REPORTS

XVII. ADJOURNMENT

NOTE: THIS MEETING IS TELEVISED LIVE ON COMCAST CHANNEL 98.

IF A PERSON DECIDES TO APPEAL A DECISION MADE BY THE COUNCIL IN ANY MATTER CONSIDERED AT THIS MEETING/HEARING, SUCH PERSONS MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS MADE,

TO INCLUDE THE TESTIMONY AND EVIDENCE UPON WHICH ANY SUCH APPEAL IS TO BE BASED.

	For special accommodations, please notify the Town Clerk's Office at least 72 hours in advance. (239) 765-0202		Help for the hearing impaired is available through the Assistive Listening System. Receivers can be obtained from the Town Clerk's Office.
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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.

Town of Fort Myers Beach

PROCLAMATION

WHEREAS, one of the most meaningful gifts that a human being can bestow upon another is the gift of life; and

WHEREAS, more the 39,000 Americans receive a lifesaving organ transplant every year; and

WHEREAS, a new patient is added to the national patient waiting list for an organ transplant every 10 minutes; and

WHEREAS, over 108,000 men, women and children are currently on the national waiting list for organ transplantation, of which nearly 5,000 are in the West and Southwest Florida area; and

WHEREAS, an average of 22 people die every day awaiting an organ transplant that does not come in time; and

WHEREAS, an organ, tissue and eye donor can potentially save or enhance the lives of more than 75 people; and

WHEREAS, everyone is a potential organ, eye and tissue donor and can register their wish to save lives through organ and tissue donation at www.DonateLifeFlorida.org or on their driver license.

NOW, therefore, be it proclaimed that the Town Council of the Town of Fort Myers Beach, Florida proclaims **April 2021** as

DONATE LIFE MONTH

Given under my hand and the seal of the office of the Mayor this 15th day of March 2021.

Raymond P. Murphy, Mayor



Fort Myers Beach Town Council

**Council
Chambers2525
Estero Blvd.
Fort Myers Beach, FL 33931**

Minutes

Monday, March 1, 2021

9:00 AM

ORDER OF BUSINESS

DRAFT

I. CALL TO ORDER

Members present: Mayor Murphy, Vice Mayor Hosafros, Council Member Allers, Council Member Atterholt and Council Member Veach.

II. INVOCATION

Town Clerk Baker.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA

Council Member Allers moved to approve the final agenda; second by Vice Mayor Hosafros.

Motion carried unanimously.

V. PUBLIC COMMENT

Lou Daviau did not support electric bikes on sidewalks. He read excerpts from an ordinance. He requested that the word "beach" be removed from the section or eliminate the entire section and allow electric bikes on the beach.

Terry Persaud distributed a document regarding a chair license that was on the Sunset Grill property. He stated that his chair license application was denied or ignored three times. He explained that he regained his full liquor license and his guests wanted to sit outside on chairs. He requested that his chair license be approved immediately.

Ellen Vaughn described the character of the beach.

VI. PROCLAMATIONS

A. Believing in Girls

Lee County Pace Center for Girls be recognized March 2021 as

Believing in Girls! month in the Town of Fort Myers Beach.

Vice Mayor Hosafros read the Proclamation and presented it to Denise Monahan. She honored Ms. Monahan for her dedication. Ms. Monahan thanked Town Council and described the Lee County Pace Center for Girls.

B. Problem Gambling Awareness Month

The Florida Council on Compulsive Gambling to be recognized March 2021 Problem Gambling Awareness Month in Fort Myers Beach Mayor Murphy read the Proclamation.

VII. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Council Member Allers recognized the Lee County Sheriff's Office, the Outreach Center and the Gulf Coast Humane Society for their event, Bark at the Beach, which will be held the first Friday of every month in the future. He noted they were looking for sponsors and he thanked Ryan, Community Relations Director at the Gulf Coast Humane Society.

Council Member Atterholt recognized Larry Kiker, previous Town Councils and present Commissioners for the Estero Boulevard project.

No items from other members.

VIII. ADVISORY COMMITTEES ITEMS AND REPORTS - NONE SUBMITTED

No reports.

IX. APPROVAL OF MINUTES

A. Town Council - February 16, 2021

Council Member Veach moved to approve the minutes; second by Vice Mayor Hosafros.

Motion carried unanimously.

X. CONSENT AGENDA

Vice Mayor Hosafros moved to approve the consent agenda; second by Council Member Allers.

Motion carried unanimously.

A. CrowderGulf Contract Renewal

Approve and authorization the Town Manager to execute Renewal #2 (of3) to the CrowderGulf Agreement for Disaster Recovery Services.

Vice Mayor Hosafros moved to approve and authorize; second by Council Member Allers.

Motion carried unanimously.

B. Disaster Debris Monitoring Services

Approve a contract with Thompson Consulting for Disaster Debris Monitoring Services in response to RFP-18-26-PW and authorize the Town Manager to execute the contract documents and expend budgeted funds on behalf of the Town.

Vice Mayor Hosafros moved to approve the contract; second by Council Member Allers.

Motion carried unanimously.

C. Resolution 21-15: Expansion of Beach Renourishment Scope

Adopt Resolution 21-15 Ratifying action of the Town Council taken at their February 16, 2021 meeting to expand the scope for the beach renourishment project to include Central and South Beach Segments designated as Critically Eroded by the FDEP and request \$50,000 in additional TDC Grant funds to allow for concurrent design and permitting of the extension providing for time and cost efficiencies.

Vice Mayor Hosafros moved to adopt Resolution 21-15; second by Council Member Allers.

Motion carried unanimously.

XI. PUBLIC HEARINGS

A. VAR20200091 5730 Estero Blvd

Recommend approval of a variance from Land Development Code Chapter 34 Article IV Division 2 Sec. 34-1174(b) to allow the construction of two (2) accessory structures - a garage and pool - in front of the principal structure located at 5730 Estero Blvd.

Staff recommends approval with original conditions.

Town Attorney Herin, Jr. swore in those providing testimony for all three items. Ex parte communications: Mayor Murphy - none; Vice Mayor Hosafros - drive-by; Council Member Allers - drive-by; Council Member Atterholt - site visit; and Council Member Veach knows Mr. McHarris.

Assistant Community Development Director Carl Benge reviewed the background of the request as stated on the blue sheet. He noted that staff recommended approval with conditions. He indicated that the LPA (Local Planning Agency) recommended the removal of Condition 4. Town Manager Hernstadt stated that Condition 4 was always recommended for variances to make it part of the record so the applicant could not claim ignorance of the requirements. Vice Mayor Hosafros added that removing it would put it in the discretion of the Special Magistrate. She requested consistency regarding resolutions included in recommendations. Council Member Atterholt explained that the LPA was concerned about the \$500/day penalty. He agreed with the LPA and preferred to give the Special Magistrate discretion to interpret fines on a case-by-case basis.

Jim McHarris represented the Holcomb family and utilized PowerPoint for his presentation. Slides included Request, Existing Condition; Requested Action; Reason for Request; Proposed Site Plan and Impact to Public Safety. He noted they agreed with the recommendations and conditions.

Vice Mayor Hosafros appreciated the owner's changes on the property.

Public comment:

Dave Festy, resident, supported the applicant's request. Public comment closed.

Council Member Allers moved to approve the variance with the LPA recommended conditions and found it was consistent with the LDC (Land Development Code); second by Council Member Atterholt.

Motion carried unanimously.

B. First reading and Public Hearing: Ordinance 21-02: Myerside CPD Rezoning DCI 2020-0009 Myerside CPD Rezoning Ordinance First Reading Open the public hearing and if approved, set the second reading and final hearing for April 5, 2021 at 9:00 AM

Ex parte communications: Council Member Allers - drive-by and had a brief conversation with the applicant; Vice Mayor Hosafros - visited the property in the past and received a text; Council Member Atterholt - visited the property in the past and had a brief conversation with the applicant; Council Member Veach - a brief conversation with the applicant, email exchanges and he walked by the property and Mayor Murphy had a brief conversation with the applicant.

Community Development Director Jason Green utilized PowerPoint for his presentation. Slides included Request/Existing Uses; Staff Analysis; Comprehensive Plan Consistency including Policies 4-B-5 and 4-B-11; Equivalency Factor; Comprehensive Plan Consistency Policy 4-C-3; Land Development Code Sections 34-85 and 34-216 and Staff and LPA Recommendations.

Town Attorney Herin, Jr. read the title of the ordinance.

Attorney Beverly Grady from Roetzel & Andress represented the applicants. She reviewed the history of the property and how it fit with the Comprehensive Plan. She introduced Patrick Vanasse from RWA Engineering. She utilized PowerPoint for her presentation. Slides included Request; LPA Hearing; Location; Future Land Use Map; Redevelopment Intent; 1996 Commercial Rezoning Denial on Half of Subject Property; 1996 Rezone to CPD Irrelevant to this Application and Changes from 1996 Case. Mr. Vanasse revealed that he was an LPA Member and had filed and conflict of interest form with the Town Clerk and had recused himself from deliberations and votes. He noted that he was hired for the project before becoming an LPA Member. He continued the presentation with a Zoning Map; Project Location; Consistency with Comprehensive Plan - Vision; Consistency with Comprehensive Plan: Boulevard FLU Category Policy 4-B-5; Allowance for Primarily Commercial Uses - 70%; No Commercial Intrusion; Platted Overlay; Policy 4-C-6 Motel Densities; Allowable Intensities; Existing Units & Allowable Guest Units; Density Analysis; No Commercial Intrusion Map; Comp Plan Policies Further Supporting Commercial Uses and Preserving of Cottages; Planned Development District; Master Concept Plan and Phased Request; Consistency with LDC Secs. 34-85 and 34-216 - Rezoning Considerations; Proposed MCP & Enhancement to Existing Conditions; Deviations; Proposed Bay Oaks

Improvements; Coastal Cottages; Letters of Support and Conclusion.

Vice Mayor Hosafros noted they received a letter before their meeting from the Lee County School District objecting to the project. She requested a recess so Attorney Grady and the applicants could review the letter.

Mr. Vanasse addressed consumption on-premises (COP) and stated it was limited to beer and wine in the restaurant and the Tiki Hut was used only for receptions and special events. The hours for COP and amplified noise were limited to 10:00 a.m. to 10:00 p.m. He described other establishments in the neighborhood that served alcoholic beverages.

Council Member Veach requested clarification regarding density calculations. Mr. Vanasse explained that they were trying to enhance the existing structures and existing uses. He stated they had 12 units on the ground today and were eligible for 10 dwelling units per acre. He noted they applied the ratio and converted residential units into guest units. He commented that if they were not allowed to bring in another historical cottage, they would request to build one.

Council Member Atterholt requested they discuss how a regulatory certainty would help preserve the cottages. Mr. Vanasse described the upkeep of cottages and a unified regulatory certainty would allow the owners to invest and enhance the property. He stated that the zoning would limit what new owners could do to the property.

Council Member Veach mentioned that he had a conversation with the fire department. He questioned whether the cottages would be upgraded to current fire codes as listed by the fire department. He discussed the potential expense of preserving them. Attorney Grady replied that upgrading the cottages went beyond the rezoning request. She noted that the applicant hired a professional building official to work with them regarding future code requirements.

Town Attorney Herin, Jr. stated that if they approved the use, new owners could request a modification to the site plan and replace the cottages.

Attorney Grady commented that they would have to go before Town Council and Public Hearings would be required.

Council Member Allers questioned when the Mexican Restaurant, approximately 250 feet away from the school, received their COP. Mr. Vanasse indicated that he did not know and their building one was approximately 350 feet from the school. Council Member Allers questioned whether the School Board opposed the Mexican Restaurant's request for COP. Town Manager Hernstadt commented that he would look into the issue. Council Member Allers questioned whether they would be willing to add Tiki Hut receptions and special events as an exception. Mr. Vanasse replied that they would work with staff. Council Member Allers questioned whether they had a cottage in mind to move to the property. Attorney Grady replied that nothing was locked in, but the cottage would have to meet all required criteria.

Vice Mayor Hosafros questioned whether they would modify their amplified noise to 3:00 p.m. Mr. Vanasse replied that they would look at decibel levels. Vice Mayor Hosafros did not see a big demand for amplified music before 3:00 p.m. Mayor Murphy discussed students in school. Attorney Grady replied that they would change the hours to start at 3:00 p.m.

Public comment:

Cindy Leal Brizeula, Senior Planner with the school district, represented the Lee County School District. She read a statement opposing COP and amplified music in proximity to the school. She stated the area was institutional in nature. They requested denial of the request.

Ellen Vaughn, resident, supported the project and wanted to preserve the historic nature of the cottages. She encouraged Town Council to endorse the request.

Charlie Whitehead reviewed his family's history on the beach. He discussed opening two bars a few feet from the Bay Oaks Rec Center, the library, and the school. He stated it was inconsistent with the Comp Plan and he thought the public should have been informed. He did not think the COP would be limited to the Tiki Hut and restaurant. He noted drinkers might be leaving the facilities at the same time the little league teams were leaving the field. He stated it was a bad idea.

Tracey Gore read sections from the Comp Plan regarding uses on School St. She stated they had one school resource officer and they did not have time to monitor the site. She explained why the LDC did not allow it and it could not be approved. She stated that it was a residential area that was gifted a bed and breakfast in 2016.

Megan Heil, Chair of the LPA, discussed their concerns regarding the COP and noise. She stated their turning point was when LPA Member Hughes supported the request. She stated that they forgot about restaurants in the area that already served beer and wine.

Marilyn Saludo, former teacher from Michigan, visited Myerside for seven years and she discussed how they preserved the culture of a charming resort community. She recognized concerns regarding the school and alcohol, but she stated it was not a crazy bar. She felt it would be a controlled environment and she would like to see a restaurant. She encouraged approval.

Public comment closed.

Council Member Veach questioned whether it had to be a subordinate use. Town Attorney Herin, Jr. replied that it was regarding a hotel use and not what was before them. Council Member Veach questioned whether the Blvd. was concerning the non-residential portion. Director Green responded that it was close to 70% and he would provide details if it went to a second hearing. Council Member Veach questioned calculations on density and the equivalency numbers if they rebuilt. Director Green replied that the platted overlay was to recognize existing dwelling units. Council Member Veach felt it was an intrusion into a residential neighborhood.

Council Member Atterholt noted the Mexican restaurant served liquor in addition to beer and wine. He reviewed comments made at the LPA meeting and felt preserving the cottages was worthy of their support.

Vice Mayor Hosafros favored preserving cottages, but she was concerned regarding the School's lack of support. She questioned several blanks in the resolution and items not provided by the applicant. She questioned how they could accomplish saving the cottages. She described delineating the cottages in the CPD to lock them in. Vice Mayor Hosafros noted a lot of empty retail on the island and questioned whether the town could support it. Council Member Allers indicated that Town Council had to listen to the public. He brought up the Mexican restaurant's liquor license within 250 feet. He hesitated to prohibit one entity from doing what another establishment was already doing. He did not think it was up to them to worry about business plans and whether business' succeeded. He agreed that they should maintain a good relationship with the School Board. He hoped that if it moved forward, the applicant would consider concerns brought up by the School Board and the safety of students.

Mayor Murphy commented on noise during classes when windows were open in the winter. He stated they could vote to move it to a second hearing; they could vote to deny or vote to continue the hearing until conditions were brought back to satisfy certain Council Members.

Vice Mayor Hosafros moved to set a second public hearing on April 5, 2021, for Ordinance 21-02; second by Council Member Atterholt.

Council Member Veach questioned whether they would have to start all over again if changes were made before the second hearing. Town Attorney Herin, Jr. explained the blanks in the ordinance and stated they would not have to start from scratch.

Motion carried 4-1 with Council Member Veach dissenting.

C. First reading and Public Hearing: Ordinance 21-01 amending Chapter 6 of Land Development Code

The Florida Building Code has been modified. Changes to the Towns regulations are required for consistency and other licensing and regulatory issues. Chapter 6 Maintenance Codes, Building Codes, and Coastal Regulations of the Land Development Code Amendments Open the public hearing and set the second reading and final hearing for March 16, 2021 at 9:00 AM

Town Attorney Herin, Jr. read the title of the ordinance. Director Green reviewed the changes and noted the LPA unanimously recommended approval.

Vice Mayor Hosafros expressed concern regarding allowing four and five-car garages. Town Manager Hernstadt suggested that they could limit the numbers of garages by a variance. Council Member Veach questioned whether they should include a section limiting them. Town Manager indicated they could insert a section limiting the number of garages in their motion.

Council Member Allers was not concerned regarding the number of garage doors. Town Manager Hernstadt indicated that they could add an amendment before the second hearing if they were not comfortable adding a provision in their motion.

Vice Mayor Hosafros moved to set Ordinance 21-01 to a second hearing on March 16, 2021, with a request that staff brings forward alternatives on how to replace the garage door section with something appropriate; second by Mayor Murphy.

Motion carried unanimously.

XII. ADMINISTRATIVE AGENDA

A. Thiel Lien Reduction Request: 464 Washington Court

Lien Reduction Request for CE19-0214

Community Services Coordinator Daphnie Bercher-Saunders reviewed the details of the case. She stated the total of the lien was \$29,825.00. She described the violation and explained that the Thiel's' had almost 11 months to come into compliance.

Mr. Thiel stated that the area in question was less than 500 square feet in his front yard and the cul-de-sac flooded between his property and the neighbors. He described work that was done to the back and sides of his property. After the damaged plastic was replaced in the front, it still flooded. He requested that it be dismissed because he did everything the Town requested. He noted that he tested positive for COVID and was quarantined up north with his wife.

Council Member Atterholt noted that he spoke to Mr. Thiel and discussed the challenges involved. He questioned why it was not addressed before COVID. Mr. Thiel stated that he remedied the situation three days after the deadline. He stated the problem was that the cul-de-sac flooded and ponded on his property. He indicated that Carl Bengé suggested he drill holes in his downspout, which he did. Mr. Bengé inspected and approved it a year and a half ago.

Town Attorney Herin, Jr. stated that Mr. Thiel was issued a warning on April 25, 2019, with 60 days to come into compliance. He noted the warning did not specify the location of illegal discharge. He had from April 25, 2019, until January 16, 2020, to comply. Council Member Veach commented on the lack of specificity in the violation.

Council Member Veach moved to reduce the lien to \$10,000.00; second by Mayor Murphy.

Discussion was held regarding the details of the case. Council Member Atterholt stated that Mr. Thiel did try to remedy the situation and he supported the motion.

Motion carried 4-1 with Vice Mayor Hosafros dissenting.

B. Vehicle Replacement - Isuzu Truck

Approve the trade in and purchase of the replacement vehicle from Nextran Isuzu Truck Center of Fort Myers in the amount of \$33,331.64 after trade-in credit, as budgeted in FY21 budget, piggybacking Florida Sheriff Association Contract FSA20-VEH18.0, and authorizing trade in of Isuzu Truck.

Council Member Veach moved to approve the trade-in; second by Vice Mayor Hosafros.

Motion carried unanimously.

XIII. FINAL PUBLIC COMMENT

No public comment.

XIV. TOWN MANAGER'S ITEMS

No items.

XV. TOWN ATTORNEY'S ITEMS

Town Attorney Herin, Jr. reported that the earlier property owner request during Public Comment was also the subject of a code violation case. He noted the property owner was correct in stating that his liquor license was reinstated, but that fact had nothing to do with any other case. He stated the Town rejected an earlier chair license application because it did not meet the requirements of the code. He was not aware of a pending application. Discussion was held regarding the chair rental ordinance.

XVI. COUNCILMEMBERS ITEMS AND REPORTS

Vice Mayor Hosafros described the frustration shared by many in the community regarding the poor vaccine rollout.

Mayor Murphy agreed and noted the situation should improve once more vaccines become available.

Council Member Veach displayed a photo of the new Kiwanis Club bench backs. He noted one of the benches had a different back and a memorial decal. He stated the family did not have permission to take the bench and it was on Town property. He described a solution to add a memorial to the new backs, but the family objected. He mentioned expanding the memorial bench program so memorials could be added to the lower portion of all the new backs. Vice Mayor Hosafros suggested adding another bench next to the existing one. Council Member Atterholt questioned grandfathering the bench as long as someone maintained it. Council Member Veach brought up setting a precedent when they already had a memorial bench program. He indicated that he would contact the family and have them work with the Kiwanis Club. Council Member Veach suggested directing residents to the Lee County Commissioners regarding street light issues.

XVII. ADJOURNMENT

Vice Mayor Hosafros moved to adjourn; second by Council Member Atterholt.

Motion carried unanimously.

The meeting was adjourned at 1:20 p.m.

DRAFT



Fort Myers Beach Management & Planning Session

Council Chambers
2525 Estero Blvd.
Fort Myers Beach, FL 33931

Minutes

Thursday, March 4, 2021

9:00 AM

ORDER OF BUSINESS

DRAFT

I. CALL TO ORDER

Members present: Mayor Murphy, Vice Mayor Hosafros, Council Member Allers, Council Member Atterholt and Council Member Veach.

II. PLEDGE OF ALLEGIANCE

III. ITEMS FOR DISCUSSION

A. Lee County Update - written report only

Update of Lee County projects on Fort Myers Beach

Mayor Murphy noted a report was provided and was available online.

B. Comprehensive Plan Update Status

The Corradino Group will provide a project status of the Comprehensive Plan updates

Project Manager Eddie Ng reviewed The Corradino Group's experience. He utilized PowerPoint for his presentation. Slides included: Agenda; Project Tasks and Timeline; Preliminary Review - General; Future Land Use Element; Community Design Element; Transportation Element; Coastal Management Element; Capital Improvements Element; Intergovernmental Coordination Element; Utilities Element; Housing Element; Recreational Element; Conservation Element; Historic Preservation; Stormwater Management Element and Examples of Updates.

Vice Mayor Hosafros brought up the lack of work-force housing. She brought up conflicts in the code regarding repetition and organization and indicated that the survey was too technical.

She questioned if the survey could be modified and re-released. Council Member Atterholt suggested that they present best practices from other communities. Community Development Services Director Jason Green explained the bank situation at Sea Grape Plaza. Council Member Atterholt questioned whether Director Green could provide action items to expand the potential of that property. Town Manager Hernstadt commented that any serious inquiry regarding the property would be presented to Council.

C. Preview of draft updated website

As authorized by Town Council, staff launched a redesign of the website to bring it into ADA compliance, change the look and colors to match the Town's new branding strategy, edit and fix outdated content, and restructure the navigation system to make content more easily accessible to website visitors.

Social Media & Communications Coordinator Jennifer Dexter displayed the new homepage. She stated the Town's goal was three-clicks or less for all content. Council Member Veach suggested adding Parks to the Beaches button. Council Member Allers suggested adding webcams to the homepage. Town Manager Hernstadt noted that a disclaimer could be added to alert users when they were being redirected to other websites. Coordinator Dexter reviewed Popular Pages and noted traffic cams were included in the list and that more pictures will be added throughout the website.

Council Member Atterholt questioned whether all current and past public meetings would be accessible through the Town's website or other sources. Coordinator Dexter responded that all meetings were available on YouTube and the Town's website. Town Manager Hernstadt encouraged feedback.

D. Code Enforcement Strategies

Code Enforcement Discussion

Council Member Atterholt stated his goal was to develop best practices to avoid code enforcement and to educate community members.

Community Development Administrator Daphnie Saunders thanked Council and staff. She stated that complaints could be called in anonymously and their process was engagement, education, and compliance. She explained how the process worked. She noted that people who appeared before the Special Magistrate had already had months to comply and the hearings were the last resort for the Town. She explained the lien process, foreclosures, short-term rental violations and work without permit violations.

Town Manager Hernstadt suggested that people get multiple bids on projects and make contractors prove that they obtained permits. Council Member Atterholt questioned how property owners could expedite the permit process. Town Manager Hernstadt replied that they should contact the Town. Mayor Murphy added that permits required inspections to protect the property owner. Council Member Allers stated that a lack of communication and difficulty finding information on the website was an issue.

Coordinator Saunders described the portal to track permit activity for property owners on the Building Services page. Council Member Atterholt questioned what people purchasing property should do to ensure the property is free of violations. Prospective buyers should contact the Town for information. Council Member Veach described his experience with the first house he bought on the island and commented that he did not know to ask questions regarding the non-conforming but legal apartment in the lower portion of the house. Town Manager Hernstadt indicated that they gave the best information to anyone who called.

Coordinator Saunders suggested that a page could be created on the website with information on buying a home. Council Member Atterholt suggested adding information regarding installing a pool and building a fence, among other items, to expedite the process. Town Manager Hernstadt replied they could add that information.

Council Member Allers questioned whether the Town could provide a list of recommended contractors. Town Attorney Herin, Jr. replied negatively. He recommended that they include a section on the website with information on what to do before buying property.

Coordinator Saunders concluded that many rules were on signs at the beach accesses if people wanted to avoid code enforcement issues.

E. Lighting Study Stakeholder Meeting Assignment of Representatives To select/appoint members to represent the community as "Stakeholders" for a meeting to guide the Lighting Study.

Town Manager Hernstadt reviewed two options put forth by the lighting consultant with different price tags. Council Members agreed to move forward with the least expensive alternative.

Council Member Allers noted that he sent Council Members the name of a person volunteering to participate. Town Manager Hernstadt remarked that they could advertise details to encourage interest.

F. Mechanical Noise

Discussion about mechanical equipment and techniques to mitigate potential impacts of noise.

Town Manager Hernstadt provided information from other communities. Vice Mayor Hosafros brought up baffling. She noted the cost to add baffling was minimal. Director Green stated that location, separation and baffling were the three options. Council Member Atterholt questioned whether they could set parameters on baffling. Council Member Veach questioned how effective baffles were. Vice Mayor Hosafros replied that it was an inexpensive option that would help somewhat. Town Manager Hernstadt stated that they would investigate baffling details.

G. Sea Turtle Conservation Ordinance

Discuss proposed changes to Sea Turtle Conservation Ordinance.

Environmental Project Manager Chadd Chustz reviewed minor changes. He stated interior light pollution was the most common violation. He requested they consider applying a 15% tinting of windows to remodeling projects and window replacements. He noted that opaque curtains were the best option. Council Member Allers felt the definition of new construction was vague.

Town Manager Hernstadt explained how the turtle enforcement worked before turtle season. He described the difference between manufacturer's tinted windows versus homeowners installing their own tinting.

Council Member Allers brought up communicating the rules to new property owners not familiar with turtle regulations. Town Manager Hernstadt commented that owners could contact the Town to set up an inspection of their property prior to turtle season. Council Member Veach stated that grants were available to bring houses up to compliance. Council Member Allers indicated that some people installed lights from the Town and still received citations. Town Manager Hernstadt responded that in some instances, other light sources were the problem.

Project Manager Chustz noted that citations for interior lighting were usually due to blatant violations rather than a light left on in a hallway.

Council Member Veach discussed tinted windows and noted that tinting was a partial solution and would alleviate some light on the beach. Project Manager Chustz added that a combination of techniques might be required.

Town Attorney Herin, Jr. stated that the turtles were protected under the Federal Endangered Species Act and implemented at the State level through the Fish and Wildlife Conservation Commission (FWCC). He noted that the FWCC updated its ordinance last year and the Town was attempting to customize it based on the needs of the community. He stated that they would send the draft ordinance to the FWCC for their review.

IV. AGENDA MANAGEMENT

Add a discussion on newspapers in plastic bags left in driveways.

Vice Mayor Hosafros noted that the Vice Mayor of Sanibel Holly Smith contacted her regarding House Bill 219 and Senate Bill 522 concerning short-term rentals. She stated that Sanibel and Estero were sending letters to legislators and Cape Coral was considering. She received support to add it to the next agenda. Town Attorney Herin, Jr. will draft a letter to the legislature, provide a synopsis on the senate bill and a copy of Sanibel's letter.

Town Manager Hernstadt stated that their ordinance was grandfathered. Town Attorney Herin, Jr. recommended against making any changes until the issue was resolved at the legislative level.

Add work-force housing.

Public Works Director Chelsea O'Riley stated that she met with the school district regarding the placement of the proposed field to the school. She noted the field was shifted and should be finalized with attorneys in a couple of months.

V. ADJOURNMENT

Mayor Murphy adjourned the meeting at 12:01 p.m.

DRAFT

1. Requested Motion:

Meeting Date: March 15, 2021

First Reading and Public Hearing: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING ARTICLE V OF CHAPTER 32 OF THE CODE OF ORDINANCES OF THE TOWN OF FORT MYERS BEACH ENTITLED "SEA TURTLE CONSERVATION", PROVIDING FOR SEVERABILITY; CODIFICATION; SCRIVENER'S ERRORS; CONFLICTS OF LAW AND AN EFFECTIVE DATE. Open the first public hearing and schedule for second reading and final adoption on April 5, 2021 at 9:00 a.m.

Why the action is necessary:

Proposed amendments will continue to reduce light pollution onto sea turtle nesting habitat, which will improve the survivorship of these endangered species. Interior light continues to be the most frequent cause of light pollution on the beach. Commercial businesses and multifamily condos continue to add lights that contribute to sky glow and do not meet Chapter 34, Article IV, Division 20. Lighting Standards.

What the action accomplishes:

15% tinting of windows mitigates interior light to reduce light pollution onto sea turtle nesting habitat on the beach, particularly on vacation rentals, high rise resorts and condo properties.

Clarifying language regarding interior lighting visibility on the beach enables better enforcement.

Referencing Chapter 34, Article IV, Division 20. Lighting Standards could reduce sky glow.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Ordinance

4. Submitter of Information:

5. Background:

Marine Resource Task force conducted 1 year review of the 2020 Sea Turtle Conservation Ordinance.

The intent of changes is to accomplish the following:

Reduce interior light pollution onto sea turtle nesting habitat

- consider 15% tinting windows for new and remodel construction
- added definition for "new construction"
- add interior light check to Certificate of Occupancy inspection
- add more direct language regarding interior light visible on the beach

Reduce Sky Glow

- reference Lighting Standards (Chapter 34, Article IV, Division 20) in the Sea Turtle Conservation review and inspection for commercial and multifamily

Attachments:

1. 21-03, Amend Chapter 32 Sea Turtle Conservation 1st Reading-C1
2. Witherington email re Reflectivity
3. 62B-55_ModelLightingOrdinance_NPR_0

4. SEE PAGE 4 - FWC Guidelines 2018
5. Examples

Financial Impact:

6. Alternative Action

Do not approve amendments to Sea Turtle Conservation Ordinance

7. Management Recommendations:

8. Recommended Approval:

Chadd Chustz, Environmental Project Manager
Daphnie Bercher, Community Services Administrator
John R Herin Jr, Town Attorney
Amy Baker, Town Clerk
Roger Hernstadt, Town Manager

Created/Initiated - 3/8/2021
Approved - 3/10/2021
Approved - 3/11/2021
Approved - 3/11/2021
Final Approval - 3/11/2021

ORDINANCE NO. 21-03

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING ARTICLE V OF CHAPTER 32 OF THE CODE OF ORDINANCES OF THE TOWN OF FORT MYERS BEACH ENTITLED “SEA TURTLE CONSERVATION”, PROVIDING FOR SEVERABILITY; CODIFICATION; SCRIVENER’S ERRORS; CONFLICTS OF LAW AND AN EFFECTIVE DATE.

WHEREAS, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

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

WHEREAS, the Town of Fort Myers Beach, Florida (“Town”) recognizes that artificial lighting and other human activities on the beach and upland areas have a detrimental effect on the life-cycle and nesting activities of sea turtles, which are an endangered species protected by federal and state law, and therefore subject to reasonable regulations as proposed herein; and

WHEREAS, the Town also recognizes that both its economy and the quality of life of its residents are enriched by a healthy sea turtle population; and

WHEREAS, the Town desires to minimize the detrimental impact on nesting sea turtle populations, and other listed sensitive wildlife by implementing a system of rules and regulations that reduces the amount of artificial light intentionally or unintentionally visible from beaches; and

WHEREAS, on March 15, 2021 the Town Council held a first reading of this proposed Ordinance; and

WHEREAS, on April 5, 2021 the Town Council held a second reading of this proposed Ordinance.

NOW THEREFORE IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH, FLORIDA:¹

^{1/} Additions to existing text are shown by underline, changes to existing text on second reading are shown by double underline, and deletions are shown as strikethrough.

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

Section 2. Article V of Chapter 32 of the Code of Ordinances of the Town of Fort Myers Beach entitled “Sea Turtle Conservation” is hereby amended to read as follows:

CHAPTER 32 – WATERWAYS AND BEACHES

ARTICLE V. – SEA TURTLE CONSERVATION

Sec. 32-101. - Article purpose and objectives.

The purpose of this article is to protect nesting and hatchling sea turtles on the beaches in the Town of Fort Myers Beach ("town") by ensuring that their nesting habitat is not degraded by artificial light. The objective of the article is to ensure artificial light does not interfere with sea turtle nesting and hatching events through the appropriate design and implementation of coastal lighting systems. In order to further the objective of full implementation, this article also includes provisions designed to educate residents and beach users in the town on the benefits of appropriate coastal lighting and provides for weekly inspections to ensure compliance with the acceptable lighting standards.

Sec. 32-102. - Applicability.

The provision of this article shall apply to all properties within the town that may produce artificial light directly, indirectly, or cumulatively visible from any portion of the beach, regardless of whether those properties are beachfront properties; and to all buildings and related infrastructure, including landscaping, as well as all other activities that may adversely impact sea turtles.

Sec. 32-103. - Definitions.

For the purposes of this article, the following words and phrases will have the meanings respectively ascribed to them by this section unless the context clearly indicates otherwise:

Artificial light means the light emanating from any human-made device.

Beach means the zone of unconsolidated material that extends landward from the mean low water line to the place where there is marked change in material or physiographic form, or to the line of permanent vegetation.

Cumulatively visible means light from numerous artificial light sources on a single property that as a group are directly or indirectly visible to an observer standing anywhere on the beach.

Directly visible means visibility of the glowing elements, lamps, globes, or reflectors of an artificial light source by an observer standing anywhere on the beach.

Disorientation means an event caused by direct, indirect, or cumulative artificial lighting on sea turtle nesting habitat resulting in the disruption in the ability of nesting sea turtle females and sea turtle hatchlings to find the sea from the beach.

Footcandle means the English unit for measuring illuminance; the uniform illumination of a surface one foot away from a point source of one candela; one lumen per square foot; equals to 10.76 lux.

Frontal dune means the first natural or man-made mound or bluff of sand which is located landward of the beach and which has sufficient vegetation, height, continuity, and configuration to offer protective value.

Full cutoff means a lighting fixture constructed in such a manner that no light emitted by the fixture, either directly from the lamp or a diffusing element or indirectly by reflection or refraction from any part of the luminaire, is projected at or above 90 degrees as determined by photometric test or certified by the manufacturer.

Fully shielded means a lighting fixture constructed in such a manner that the glowing elements, lamps, globes, or reflectors of the fixture are completely covered by an opaque material to prevent them from being directly visible from the beach. Any structural part of the light fixture providing this shielding must be permanently affixed.

Indirectly visible means visibility of reflected light as a result of glowing elements, lamps, globes, or reflectors of an artificial light source which is visible to an observer standing anywhere on the beach without the light source being directly visible.

Lighting plan means plan view and cross section drawings describing location, number, wattage, wavelength, elevation, orientation, fixture cut sheets, and all types of proposed exterior artificial light sources, including, but not limited to, artificial lighting affixed to permanent structures, outdoor lighting, pool lighting, and internally or externally lighted signs.

Long wavelength means a luminaire emitting light wavelengths of 560 nanometers or greater and absent wavelengths below 560 nanometers. Lamps that

meet the definition of long wavelength through the use of filters, gels, or lenses are not permitted.

New Construction means all new construction of or additions and alterations to buildings, pools, pavement, other structures, landscape areas or lighting systems, including the change or resumption of land use.

Nesting season means the nesting period for sea turtles is from May 1 through October 31 of each year. Nesting season may be extended before or after these dates on an annual basis based on nesting activity observed in the Town of Fort Myers Beach.

Nighttime means the locally effective time period between sunset and sunrise.

Non-egress lighting means lighting that is not being used to light a distinct path or meet minimum requirements for emergency egress, including but not limited to, decorative lights (e.g., Christmas lights, strobe lights, string lights, etc.), balcony lights, ceiling fan lights, landscape lights, and uplights.

Outdoor area means any portion of a property that could have an artificial light source not attached to a permanent structure, including but not limited to, pathway lighting, landscape lighting, pool lighting, etc.

Sea turtle means any turtle, including all life stages from egg to adult, of these species: Green (*Chelonia mydas*), Leatherback (*Dermochelys coriacea*), Loggerhead (*Caretta caretta*), Hawksbill (*Eretmochelys imbricata*), and Kemp's Ridley (*Lepidochelys kemp*). For the purposes of this article, the term sea turtle is synonymous with marine turtle.

Sea turtle nesting habitat means all sandy beaches adjoining the waters of the Atlantic Ocean, the Gulf of Mexico, and the Straits of Florida in all coastal counties and all inlet shorelines of those beaches. Nesting habitat includes all sandy beach and unvegetated or vegetated dunes immediately adjacent to the sandy beach and accessible to nesting female turtles.

Take means an act that actually kills or injures marine turtles, and includes significant habitat modification or degradation that kills or injures marine turtles by significantly impairing essential behavioral patterns, such as breeding, feeding, or sheltering.

Temporary lighting means any non-permanent light source that may be hand-held or portable including, but not limited to, tiki torches, lanterns, flashlights (including cell phone flashlights), candles, flash photography, etc.

Tinted glass means glass modified via tinting, film or other material to reduce the inside to outside light transmittance value to 15 percent.

Sec. 32-104. - Annual public notice.

At least 30 days prior to the commencement of every sea turtle nesting season, the town shall provide written notice summarizing the provisions contained in this article.

Sec. 32-105. - Exterior and interior lighting affixed to new structures, new construction and improvements to existing structures.

- (a) All artificial lighting affixed to the exterior of new permanent structures, construction or additions shall be long wavelength, downward directed, full cutoff, fully shielded and mounted as close to the ground or finished floor surface as possible to achieve the required footcandles.
- (b) As an exception to (a) above, all non-egress lighting may be affixed to the landward exterior of permanent structures provided that the fixtures are fitted with a long wavelength source and are shall not be directly, indirectly, or cumulatively visible from any portion of the beach.
- (c) Lighting at egress points shall be limited to the minimum number of fixtures and footcandles necessary to meet federal, state, and local safety requirements.
- (d) Locations including, but not limited to, stairwells, elevators, parking garages, or courtyards shall not produce light that is directly, indirectly, or cumulatively visible from any portion of the beach. Window film, tinting, light screens, shades or curtains shall be used to block visibility of interior lights from the beach. Light screens shall be used on open or enclosed staircases on the seaward or shore-perpendicular side of a building or for parking garages to limit visibility of lights from the nesting beach.
- (e) All glass windows, walls, railings and doors on the seaward and shore-perpendicular sides of included in any new construction, alteration, or window replacement shall utilize glass with an inside to outside light transmittance value of 15 percent or less.
- (f) Emergency lights shall be on a separate circuit and activated only during power outages or other situations in which emergency lighting is necessary for public safety.

- (g) Prior to issuance of a development order and/or building permit for all new structures, new construction and improvements to existing structures seaward of the Coastal Construction Control Line as defined by F.S. § 161.053, a town approved lighting plan meeting the provisions of this article and Chapter 34, Article IV, Division 20. – Lighting Standards is required.
- (h) Prior to issuance of a development order and/or building permit for all multifamily, commercial and industrial new structures, new construction and improvements to existing structures landward of the Coastal Construction Control Line as defined by F.S. § 161.053, a town approved lighting plan meeting the provisions of this article and Chapter 34, Article IV, Division 20. – Lighting Standards is required.
- (i) Prior to the issuance of a certificate of occupancy (CO) or a certificate of completion (CC), the exterior and interior lighting of new development shall be inspected after dark by the town, with all exterior and interior lighting turned on, to determine compliance with the approved lighting plan and this article. In addition, all manufacturer specification stickers shall remain affixed to all glass windows, walls, railings and doors on the seaward and shore-perpendicular sides of any new construction to determine compliance with the approved window and door specifications and plan.

Sec. 32-106. - Existing exterior and interior lighting.

- (a) Existing artificial lighting affixed to the exterior of permanent structures shall not be directly, indirectly, or cumulatively visible from any portion of the beach during sea turtle nesting season.
- (b) Appropriate techniques for existing exterior lighting to achieve compliance with the provisions of this article include, but are not limited to:
 - (1) Reposition, modify or remove existing lighting fixtures so that the point source of light or any reflective surface of the light fixture is no longer directly, indirectly or cumulatively visible from the beach;
 - (2) Replace fixtures having an exposed light source with fully shielded fixtures;
 - (3) Replace any light source, light bulb or lamp that is not long wavelength (e.g., incandescent, fluorescent, or high

intensity lighting) with the lowest wattage long wavelength (e.g., LED or low pressure sodium) light source or lamp available for the specific application;

- (4) Replace non-directional fixtures with directional fixtures that point down and away from the beach;
- (5) Provide shields for fixtures visible from the beach and not practical to immediately be replaced. Beachside shields are to cover 270 degrees and extend below the bottom edge of the fixture on the seaward side so that the light source or any reflective surface of the light fixture is not visible from the beach;
- (6) Replace pole lamps with low-profile, low-level luminaries so that the light source or any reflective surface of the light fixture is not visible from the beach;
- (7) Plant or improve vegetation buffers between the light source and the beach to screen light from the beach;
- (8) Construct a ground level barrier to shield light sources from the beach. Ground-level barriers must not interfere with sea turtle nesting or hatchling emergence, or cause short- or long-term damage to the beach and dune system;
- (9) Permanently remove or permanently disable any fixture which cannot be brought into compliance with the provisions of these standards;
- (10) Televisions shall be shielded or positioned such that they are not directly, indirectly, or cumulatively visible from the beach.

(c) Interior lighting shall not be directly, indirectly, or cumulatively visible from any portion of the beach during sea turtle nesting season.

(d) Appropriate techniques to achieve compliance for interior lighting with the provisions of this article include, but are not limited to: The following measures can reduce or eliminate the negative effects of interior light emanating from doors and windows within line-of-sight of the beach:

- (1) Apply window tint or film that meets the light transmittance standards for tinted glass;

- (2) Rearrange lamps and other moveable fixtures away from windows;
- (3) Use opaque shades or room darkening window treatments (e.g., blinds, curtains, screens) to shield interior lights from the beach.
- (4) A combination of the above techniques may be required to achieve compliance with this article.

Sec. 32-107. - Outdoor areas.

- (a) All lighting of outdoor areas shall be long wavelength, downward directed, full cutoff, fully shielded and mounted as close to the ground or finished floor surface as possible to achieve the required footcandles.
- (b) All pathway lighting shall utilize low-level fixtures that do not exceed 42 inches in height. Fixtures shall be downward directed and utilize long wavelength lamps and beachside shields.
- (c) All non-egress outdoor lighting shall not be directly, indirectly, or cumulatively visible from any portion of the beach.
- (d) Internally or externally lighted signs shall not be located on the seaward and shore-perpendicular sides of any structures, and shall not produce light that is directly, indirectly, or cumulatively visible from any portion of the beach.
- (e) Ponds and fountains on the seaward and shore-perpendicular sides of any structures shall not produce light that is directly, indirectly, or cumulatively visible from any portion of the beach.
- (f) Fire, including cooking fires, bonfires and fire pits, if permitted by the town, shall be shielded with an opaque structure or partition, and positioned such that the flame is not directly, indirectly, or cumulatively visible from any portion of the beach.
- (g) Televisions shall be located landward of the dune and shall be shielded or positioned such that they are not directly, indirectly, or cumulatively visible from the beach.
- (h) Handheld and other portable temporary lighting shall not be directed toward or used in a manner that disturbs sea turtles or other coastal wildlife.

Sec. 32-108. - Parking areas.

- (a) All lighting of parking areas shall be long wavelength, downward directed, full cutoff, fully shielded, and mounted to the minimum level required to maintain compliance with federal, state and local law.
- (b) Parking area lighting shall be shielded from the beach via vegetation, natural features, or artificial structures rising from the ground. These shall prevent artificial light sources, including but not limited to, vehicular headlights, from producing light that is directly, indirectly, or cumulatively visible from any portion of the beach.
- (c) Lighting of parking areas shall produce no more lighting than the minimum requirement as outlined by federal, state and local law.
- (d) Lighting of parking areas shall consist of either:
 - (1) Ground-level, downward-directed fixtures, equipped with interior dark non-reflective baffles or louvers, mounted either with a wall mount, on walls or piles, facing away from the beach, or
 - (2) Bollard-type fixtures, which do not extend more than 42 inches above the adjacent floor or deck, measured from the bottom of fixture, equipped with downward-directed louvers that completely hide the light source, and externally shielded 180 degrees on the side facing the beach, or
 - (3) Pole-mounted lights, if required, which shall:
 - a. Only be used in parking areas when mounting the lights at lower elevations cannot practicably comply with minimum light levels set forth in applicable federal and state laws designed to protect public safety.
 - b. Located on the landward sides of buildings and shall not produce light that is directly, indirectly, or cumulatively visible from any portion of the beach.
 - c. Mounted at the minimum height necessary to meet the minimum light level requirement.

- d. Downward-directed onto non-reflective surfaces.
- (4) Equipment yards, storage yards, and temporary security lights shall also adhere to the lighting restrictions contained herein.

Sec. 32-109. - Pool areas.

- (a) Lighting of pool decks, pool facilities, swimming pools, and spas shall be long wavelength, downward directed, full cutoff, fully shielded and mounted as close to the ground or finished floor surface as possible to achieve the required footcandles.
- (b) Lighting of the pool water surfaces and the pool wet deck surfaces shall comply with the minimum light levels set forth in applicable federal and state laws designed to protect public safety.
- (c) Above-water lighting of pool decks, pool facilities, swimming pools, and spas shall otherwise adhere to the applicable requirements for acceptable light fixtures set forth herein.
- (d) Underwater lighting of pools or spa light shall:
 - (1) Be mounted horizontally in the wall,
 - (2) Not produce light that is directly, indirectly, or cumulatively visible from any portion of the beach, and
 - (3) Shall comply with minimum light levels set forth in applicable federal and state laws designed to protect public safety.

Sec. 32-110. - Pier structures.

- (a) Lighting of pier structures projecting over the beach or over water shall be long wavelength, downward directed, and fully shielded.
- (b) Lighting of pier structures projecting over the beach, or over water, shall be mounted no higher than 42 inches above the deck surface. These shall be directed onto the deck surface only, preventing light pollution or light spillage beyond the walking surface.
- (c) Lighting of pier structures projecting over the beach or over water shall comply with minimum light levels set forth in applicable federal and state laws designed to protect public safety.

Sec. 32-111. - Dune walkovers and beach access points.

- (a) Lighting of beach access points shall be restricted to that portion of the structure landward of the dune. All lighting of beach access points shall be long wavelength, downward directed, full cutoff and fully shielded and shall not be directly, indirectly, or cumulatively visible from the beach.
- (b) Lights are allowable on dune walkovers or elevated boardwalks only as required for building code purposes and may only be installed landward of the frontal dune. Walkover lighting shall not be directly, indirectly or cumulatively visible from the beach.

Sec. 32-112. - Special events, vehicles, raking and temporary lighting.

- (a) All special events or construction taking place on or adjacent to the beach require a permit from the town, and may require a permit from the Florida Department of Environmental Protection.
- (b) Lighting associated with a special event that may directly, indirectly, or cumulatively be visible from any portion of the beach shall not be authorized at nighttime during sea turtle nesting season.
- (c) The operation of all vehicles, except emergency and law enforcement vehicles or those permitted on the beach for sea turtle conservation in accordance with F.S. § 379.2431(1), or other research and conservation, shall be prohibited on the beach at nighttime during sea turtle nesting season. Excepted, non-emergency vehicles shall affix red filter to their headlights when operating on sea turtle nesting habitat at nighttime.
- (d) Beach raking activities during sea turtle nesting season, if permitted by the town, shall not:
 - (1) Operate at nighttime;
 - (2) Begin before 9:00 a.m. or before the completion of daily monitoring for turtle nesting activity by the Florida Fish and Wildlife Conservation Commission (FWC) authorized marine turtle permit holder, whichever occurs first;
 - (3) Occur within ten feet of any marked sea turtle nest.
- (e) Within sea turtle nesting season, temporary work zone lighting for roadway construction and during declared emergencies shall be directed away from the beach to avoid illumination of or direct

visibility from the beach. Work zone luminaires shall be shielded to avoid lighting areas outside of the immediate construction area.

- (f) All other temporary construction lighting shall be:
 - (1) Inclusive of all the standards herein, including utilizing fixtures that are long wavelength, downward directed, full cutoff, and fully shielded so light is not directly or indirectly visible from the beach, and
 - (2) Turned off during nighttime in sea turtle nesting season, or if temporary lighting is deemed necessary during sea turtle nesting season it shall only be allowed from 6:00 a.m. to 9:00 p.m., must be restricted to the minimal amount necessary, and shall incorporate all the standards herein, and
 - (3) Mounted less than eight feet above the adjacent floor or deck, measured from the bottom of fixture, and
 - (4) Restricted to the minimal number of footcandles necessary to conform to the applicable construction safety regulations.

Sec. 32-113. - Beach furniture and obstructions.

- (a) Man-made objects shall not obstruct sea turtle nesting habitat during nesting season during nighttime. All obstructions, including, but not limited to, beach furniture, cabanas, umbrellas, tents, personal watercraft, bikes, vehicles, and boats, shall be removed from sea turtle nesting habitat between the hours of 9:00 p.m. and 7:00 a.m. during sea turtle nesting season.
- (b) During sea turtle nesting season, permitted beach furniture vendors shall not place beach furniture onto sea turtle nesting habitat before 9:00 a.m., or prior to the completion of daily monitoring for sea turtle nesting activity by the FWC authorized marine turtle permit holder, whichever comes first.
- (c) No beach furniture or other man-made object shall be placed within ten feet of a marked sea turtle nest.

Sec. 32-114. - Take and disorientation.

- (a) A person, firm, or corporation shall not cause a disorientation of nesting sea turtles or sea turtle hatchlings.

- (b) A person, firm, or corporation shall not take, disturb, mutilate, destroy, cause to be destroyed, transfer, sell, offer to sell, molest, or harass any sea turtle species or hatchling, or parts thereof, or the eggs or nest of any sea turtle species.

Sec. 32-115. - Penalties.

- (a) Any violation of this article may be prosecuted in accordance with the provisions set out in section 1-5 and chapter 2, article V of the Land Development Code.
- (b) This article may be enforced by any duly authorized law enforcement officer, town code enforcement officer or town designee.
- (c) The law enforcement officer, town code enforcement officer or town designee is authorized and empowered to make inspections at reasonable hours of all activities regulated by this article in order to ensure compliance with the provisions of this article. Any person who violates any provision of this chapter, or of any regulation or guideline that implements this chapter, shall be ordered immediately to stop all work.
- (d) Any person who takes any action or omission in violation of any provision of this article and fails to cure such violation after proper notice is provided, shall be subject to a fine of up to \$250.00 per day per violation for initial violations, and \$500.00 per day per violation for repeat violations. All penalties incurred as a result of violation of this article shall continue to accrue until such violations are cured.
- (e) Nothing contained herein will prevent the town from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with, or violation of, this article. Such other lawful action will include, but will not be limited to, an equitable action for injunctive relief or an action at law for damages.

Section 3. The Town Council intends that the provisions of this ordinance be made a part of the Fort Myers Beach Code of Ordinances, and that sections herein may be renumbered or re-lettered and the words or phrases herein may be changed to accomplish codification; regardless, typographical errors that do not affect intent may be corrected with notice to and authorization of the Town Manager without further process.

Section 4. Whenever the requirements or provisions of this ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive shall apply.

Section 5. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason, declared by a court of competent jurisdiction to be unconstitutional or invalid,

such decision will not affect the validity of the ordinance as a whole, or any part thereof, other than the part so declared.

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

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

Raymond P. Murphy, Mayor	_____
Rexann Hosafros, Vice Mayor	_____
Dan Allers, Council Member	_____
Jim Atterholt, Council Member	_____
Bill Veach, Council Member	_____

ADOPTED this _____ day of May, 2021 by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

Raymond P. Murphy, 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:**

John R. Herin, Jr., Town Attorney

Chadd Chustz

From: eve@turtletime.org
Sent: Tuesday, January 5, 2021 9:49 AM
To: 'Blair Witherington'
Cc: Chadd Chustz
Subject: RE: Question about REFLECTIVITY

Good Morning, Blair,

Thank you so much for responding to my email!

I will forward your information to Chadd with the hope that the issue of reflectivity can be resolved.

Cheers,
Eve

From: Blair Witherington <blairwitherington@gmail.com>
Sent: Monday, January 04, 2021 4:46 PM
To: Eve Haverfield <eve@turtletime.org>
Cc: Blair Witherington <Blair.Witherington@disney.com>
Subject: Re: Question about REFLECTIVITY

Hi Eve,

I'm unaware of any evidence showing effects from large reflective surfaces on hatchling orientation. However, some logical inference might be a guide.

Given that 1) hatchlings on a naturally lighted beach are able to orient correctly at all phases of the moon, and that 2) on artificially lighted beaches, nights with a brighter moon have less disorientation, and that 3) the direction of reflected moonlight would always be less bright than the direction of the moon (no reflection is 100% efficient), I would not expect reflections of the moon or any other celestial light to have a significant effect on hatchling orientation.

Of course, windows, lights, and turtles are more complex than this. If there is a virtual meeting to talk out this complexity, I'd be happy to take part and share what little I know.

Best of luck and Happy New Year,

Blair

On Mon, Jan 4, 2021 at 11:47 AM <eve@turtletime.org> wrote:

Hi Blair...

I'm sorry to impose on you; I need help regarding the issue of reflectivity of window tints and their effect on sea turtle behavior (I have no idea). The Fort Myers Beach Lighting Ordinance may be in peril if we do not address the issue raised by a disgruntled realtor who was cited for lighting violations this past summer and who raised the issue of reflectivity and moonlight!

Chadd, the Environmental Project Manager, has been very helpful enforcing the Town's Lighting Ordinance and I hate to lose his helpfulness. (The Town adopted the new Model Lighting Ordinance before it was finalized.) He has been in touch with Tonya and Rachel but they have not provided, what Chadd feels, is a quantitative measure - **see below**.

Do you have any advice or recommendations?

Wishing you and Dawn a Happy and Healthy 2021!

With appreciation,

Eve

From: Chadd Chustz <chadd@fmbgov.com>
Sent: Thursday, December 03, 2020 8:49 AM
To: Stevenson, Rachael <Rachael.Stevenson@MyFWC.com>
Cc: eve@turtletime.org
Subject: Re: RE: Turtle lighting ordinance and Chad Chustz

Good Morning Rachael,

Thank you for replying, but I feel that we are in the same conversation as 3 months ago.

**We need a quantitative measure of the industry's standard for reflectivity that qualifies as not acceptable or acceptable with regards to affecting sea turtle nesting behavior.
100% reflective Mirror glass ok?**

Please, I still need help and quantitative, technical guidance.

Thank you,

Chadd Chustz
Town of Fort Myers Beach

From: "Stevenson, Rachael" <Rachael.Stevenson@MyFWC.com>
Date: Wed Dec 02 16:52:08 EST 2020
To: "Chadd Chustz" <Chadd@fmbgov.com>
Subject: RE: Turtle lighting ordinance and Chad Chustz

Good morning Chadd,

We would generally recommend against using tint that is highly reflective because of the potential to reflect light that could be seen from the beach. The easiest solution is to use 15% Visible Light Transmittance film that is not highly reflective. The exterior reflectance is not a specification we had considered previously but we are trying to get more information and possibly samples so that we can develop some guidance. For example, is there a threshold or percentage of the exterior reflectance that would not be considered highly reflective or that is low but could be applied without the issue of thermal shock? It may be helpful to reach out to other tint companies for guidance on the tint as well as the issue of thermal shock. If you get more information or have contacts for local tint companies, I would be more than happy to assist in reaching out to get more information!

That being said, ordinances usually only speak to the Visible Light Transmittance value for window tint/film and does not speak to the interior/exterior reflective values. The new model lighting ordinance that was developed included language of "directly and indirectly visible" which gets more at reflective light and uplighting. It is my understanding that Fort Myers Beach incorporated most of the language of the new model ordinance, which will help to minimize the overall reflective light.

Please let me know if any of this information has been helpful.

Rachael Stevenson

Fisheries and Wildlife Biological Scientist IV

Florida Fish and Wildlife Conservation Commission

Imperiled Species Management Section

620 South Meridian Street- 6A

Tallahassee, Florida, 32399-1600

Office: (850) 922-4330

Rachael.Stevenson@MyFWC.com

From: Chadd Chustz <Chadd@fmbgov.com>
Sent: Monday, November 30, 2020 4:07 PM
To: Long, Tonya <Tonya.Long@MyFWC.com>; Stevenson, Rachael <Rachael.Stevenson@MyFWC.com>; Davis, Luke

<Luke.Davis@MyFWC.com>

Subject: FW: Turtle lighting ordinance and Chad Chustz

[EXTERNAL SENDER] Use Caution opening links or attachments

Good Afternoon,

Following up on my email from Sept/Oct, I need technical assistance regarding window tinting.

Please offer guidance with regards to reflectivity specifications on tinting film/windows.

Also, have you received complaints regarding tinting film retrofitted onto double pane windows causing cracking due to heat absorption?

Thank you,

Chadd Chustz

Environmental Project Manager

Town of Fort Myers Beach

chadd@fmbgov.com

(239) 765-0202 Ext. 1312

From: Roger Hernstadt

Sent: Monday, November 30, 2020 3:46 PM

To: Chadd Chustz <Chadd@fmbgov.com>

Cc: Daphnie Bercher <DaphnieB@fmbgov.com>

Subject: RE: Turtle lighting ordinance and Chad Chustz

I set up an appointment with Chad Chustz and met him at one of our beachfront homes, along with my General Manager, one evening this summer. We provided him with the details and a sample of the window film and asked him if this film would be in compliance. He too was concerned of the reflective nature of the film. When we questioned him if an owner could be fined if there was a full moon and the window tint reflected off the moon and there was a turtle disorientation, he told us he would have to look into this. .

very broad public records law. Most communication(s) to or from Fort Myers Beach officials regarding Town business are public records available to the public and media upon request. Your email communications and email address may be subject to public disclosure.

--

Blair Witherington, PhD
VP and Research Scientist
Inwater Research Group, Inc.
www.inwater.org

Note: Florida has a very broad public records law. Most communication(s) to or from Fort Myers Beach officials regarding Town business are public records available to the public and media upon request. Your email communications and email address may be subject to public disclosure.

City/County of _____, Florida

Chapter ____.

MODEL LIGHTING ORDINANCE FOR SEA TURTLE PROTECTION

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ORDINANCE NUMBER 20__-__

LAND DEVELOPMENT CODE

AN ORDINANCE OF THE CITY/COUNTY OF _____ AMENDING CITY/COUNTY CODE CHAPTER _____ PROVIDING FOR AMENDMENTS TO ADOPT MODEL LIGHTING REQUIREMENTS; PROVIDING FOR REPEAL OF ORDINANCES; PROVIDING FOR TERRITORY EMBRACED; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION INTO THE CODE OF ORDINANCES; PROVIDING FOR EFFECTIVE DATE.

SECTION ____-1. – BASIS OF ORDINANCE

Sec. ____-1.1. - Findings of Fact

***Whereas, the City/County of _____** recognizes that light pollution of beaches is a serious threat to sea turtles and other species inhabiting its beaches; and

***Whereas, the City/County of _____** recognizes that nesting adult and hatchling sea turtles are negatively affected by light pollution created by artificial light visible from any portion of the beach; and

***Whereas, the City/County of _____** recognizes that sea turtles are protected by federal and state law; and

***Whereas, the City/County of _____** recognizes that both its economy and the quality of life of its residents are enriched by a healthy sea turtle population; and

***Whereas, the City/County of _____** desires to minimize the detrimental effect on nesting sea turtle populations, and other listed sensitive wildlife by implementing a system of rules and regulations that reduces the amount of artificial light intentionally or unintentionally visible from beaches;

**Guidance: These generic Findings of Fact are illustrative only. Findings of Fact should relate to the specific context of the County or City adopting a sea turtle lighting ordinance and may include data on sea turtle nesting, and disorientation/misorientation if available. It may also include information on the qualitative and quantitative value of sea turtles to the specific beachfront economies.*

NOW, THEREFORE, BE IT ORDAINED, BY THE CITY COUNCIL/BOARD OF COUNTY COMMISSIONERS OF THE CITY/COUNTY OF _____ ON THIS ____ DAY OF _____, 20__.

Sec. ____-1.2. - Title of Ordinance

This ordinance shall be referred to as the **City/County of _____** Lighting Ordinance for Sea Turtle Protection.

Sec. ____-1.3. - Ordinance Purpose and Objectives

The purpose of this Ordinance is to protect nesting and hatchling sea turtles on the beaches in the **City/County of _____** by ensuring that their nesting habitat is not degraded by artificial light. The objective of the ordinance is for the appropriate design and implementation of coastal lighting systems to

ensure that light pollution does not interfere with sea turtle nesting and hatching events while at the same time protecting public safety. In order to further the objective of full implementation, this Ordinance also includes provisions designed to educate residents and beach users in the **City/County of _____** on the benefits of appropriate coastal lighting and provides for regular inspections to ensure compliance with the acceptable lighting standards.

Sec. ____-1.4. - Definitions

1. **Artificial Light**: the light emanating from any human-made device.
2. **Beach**: the zone of unconsolidated material that extends landward from the mean low water line to the place where there is marked change in material or physiographic form, or to the line of permanent vegetation.
3. **Certified Wildlife Lighting**: lighting fixtures and bulbs reviewed and approved with conditions of use through the Florida Fish and Wildlife Conservation Commission's Wildlife Lighting Certification Process and published at <https://myfwc.com/conservation/you- conserve/lighting/criteria/certified/>.
4. **Cumulatively Visible**: light from numerous artificial light sources that as a group can be seen by an observer standing anywhere on the beach.
5. **Directly Visible**: occurs when glowing elements, lamps, globes, or reflectors of an artificial light source can be seen by an observer standing anywhere on the beach.
6. **Foot-Candle**: the English unit for measuring illuminance; the uniform illumination of a surface one foot away from a point source of one candela; one lumen per square foot; equal to 10.76 lux.
7. **Frontal Dune**: the first natural or man-made mound or bluff of sand which is located landward of the beach and which has sufficient vegetation, height, continuity, and configuration to offer protective value.
8. **Full Cutoff**: a lighting fixture constructed in such a manner that no light emitted by the fixture, either directly from the lamp or a diffusing element or indirectly by reflection or refraction from any part of the luminaire, is projected at or above 90° as determined by photometric test or certified by the fixture manufacturer.
9. **Fully Shielded**: a lighting fixture constructed in such a manner that the glowing elements, lamps, globes, or reflectors of the fixture are completely covered by an opaque material to prevent them from being directly visible from the beach. Any structural part of the light fixture providing this shielding must be permanently affixed.
10. **Indirectly Visible**: light reflected from glowing elements, lamps, globes, or reflectors of an artificial light source that can be seen by an observer standing anywhere on the beach without the light source being directly visible.
11. **Long Wavelength**: a lamp or light source emitting light wavelengths of 560 nanometers or greater and absent wavelengths below 560 nanometers.

12. **Nesting Season:** For the **City/County of _____**, the sea turtle nesting period is from _____ of each year.

Guidance: For Brevard, Indian River, St. Lucie, Martin, Palm Beach, and Broward Counties, the sea turtle nesting period is from March 1 through October 31 of each year. For Bay, Charlotte, Collier, Dade, Duval, Escambia, Flagler, Franklin, Gulf, Lee, Manatee, Monroe, Nassau, Okaloosa, Pinellas, St. Johns, St. Lucie, Santa Rosa, Sarasota, Volusia, and Walton Counties, the sea turtle nesting period is from May 1 through October 31.

13. **Nighttime:** the locally effective time period between sunset and sunrise.
14. **Non-egress Lighting:** exterior lighting that is not being used to light a distinct route or meet minimum requirements for emergency access to or from a building, including but not limited to decorative lights (e.g. strobe lights, string lights, etc.), balcony lights, landscape lights, and uplights.
15. **Outdoor Area:** any portion of a property that could have an artificial light source not attached to a permanent structure, including but not limited to pathway lighting, landscape lighting, pool lighting, etc.
16. **Sea Turtle:** any turtle, including all life stages from egg to adult, of these species: Green (*Chelonia mydas*), Leatherback (*Dermochelys coriacea*), Loggerhead (*Caretta caretta*), Hawksbill (*Eretmochelys imbricata*), and Kemp's ridley (*Lepidochelys kempii*). For the purposes of this ordinance, the term sea turtle is synonymous with marine turtle.
17. **Sea Turtle Nesting Habitat:** all sandy beaches adjoining the waters of the Atlantic Ocean, the Gulf of Mexico, and the Straits of Florida in all coastal counties and all inlet shorelines of those beaches. Nesting habitat includes all sandy beach and unvegetated or sparsely vegetated dunes immediately adjacent to the sandy beach and accessible to nesting female turtles.
18. **Temporary Lighting:** any non-permanent light source that may be hand-held or portable including but not limited to tiki torches, lanterns, flashlights (including cell phone flashlights), candles, flash photography, etc.
19. **Tinted glass:** glass modified via tinting, film or other material to reduce the inside to outside light transmittance value.

SECTION ____-2. - SEA TURTLE LIGHTING DISTRICT

Sec. ____-2.1. - Applicability

1. An overlay district, known as the *Sea Turtle Lighting District*, is hereby established within the **City/County of _____**.
2. The *Sea Turtle Lighting District* shall include all properties within the **City/County of _____**, that may produce artificial light directly, indirectly, or cumulatively visible from any portion of the beach, regardless of whether those properties are beachfront properties.

3. The provisions of this Ordinance apply to new and existing artificial lighting visible from the beach from all buildings and related infrastructure, including streetscapes, parking lots, outdoor areas, landscaping, as well as public parks and recreational areas and all other activities within the *Sea Turtle Lighting District*.
4. The provisions of this Ordinance are not intended to prevent the use of any design, materials or method of installation or operation not specifically prescribed herein, provided any such alternate has been approved. The **City/County of _____** may approve any such proposed alternate provided it:
 - a. Provides at least approximate equivalence to the applicable specific requirements of this Ordinance, and;
 - b. Is otherwise satisfactory or complies with the intent of this Ordinance, and;
 - c. Has been designed or approved by a registered lighting or electrical engineer and is supported by calculations showing that the design submitted meets that intent of the Ordinance. This sub-section shall not have the effect of waiving the lumen caps specified in this Ordinance.
 - d. Has been determined to meet requirements for Certified Wildlife Lighting and/or lights that meet FWC's Wildlife Lighting Guidelines, including long wavelength light sources (without the use of filters), full cut-off, and fully shielded fixtures.
5. Any person substantially aggrieved by any decision of the *Beach Lighting Inspector* or the *Building Official* made in administration of this Ordinance has the right and responsibilities of appeal to the *Advisory/Appeals Board* of this jurisdiction.

*Guidance: This Model establishes an Overlay District for the purpose of implementing the ordinance. This ordinance could be applied by simply consolidating (2) and (3) above and making it applicable to "all properties within the **City/County of _____** that may produce artificial light directly, indirectly, or cumulatively visible from any portion of the beach, regardless of whether those properties are beachfront properties." However, creating a District may have other benefits which include incorporating other Sea Turtle best management practices not related to lighting, as well as raising awareness through signage, etc.*

Sec. ____-2.2. - Annual Public Notice

At least thirty days prior to the commencement of every sea turtle nesting season, the **City/County of _____** shall provide notice to affected persons within the *Sea Turtle Lighting District* of the provisions contained in this Ordinance.

Declaring an official annual "lights out for sea turtles" day either the first Monday in February or April depending on the county, could also be useful. Another alternative would be designating the responsible department or official for implementing the ordinance and noticing the public.

SECTION ____-3. - LIGHTING PROVISIONS

Sec. ____-3.1. – General

Guidance: In order to provide the highest level of protection for nesting marine turtles and their hatchlings, local governments are encouraged to adopt all of the following standards for artificial beachfront lighting sources.

1. The following standards for artificial light sources are intended to help minimize harmful effects of light pollution in sea turtle nesting areas. The use of Certified Wildlife Lighting will provide the highest level of protection for nesting sea turtles and their hatchlings. Certified Wildlife Lighting refers to lighting fixtures and bulbs reviewed and approved through the Florida Fish and Wildlife Conservation Commission's Wildlife Lighting Certification Process and published at <https://myfwc.com/conservation/you-conserve/lighting/criteria/certified/>. Certified Wildlife Lighting and/or lights that meet FWC's Wildlife Lighting Guidelines, must be installed and maintained according to the approved conditions of use to achieve the light pollution reduction objectives of this Ordinance.

Guidance: The FWC Certified Wildlife Lighting website references the required options and bulleted caveats for each certified fixture. These conditions of approved use are also included in the certification letter issued to the manufacturer for the fixture. FWC Sea Turtle Lighting Guidelines can be accessed at the Sea Turtles and Lights webpage at <https://myfwc.com/wildlifehabitats/wildlife/sea-turtle/lighting/>.

2. New construction refers to all new construction of or additions and alterations to buildings, pools, pavement, other structures, landscape areas or lighting systems, including the change or resumption of land use. The most protective lighting standards apply to new construction visible from the beach.
3. Existing artificial lighting refers to lighting fixtures, sources and systems operating prior to the effective date of this ordinance. Existing lights and light sources that are visible from the beach shall be replaced or modified to conform to standards given in Section -3.7. In order to bring existing lighting systems into future compliance with this Ordinance, standards for new coastal construction shall be applied when permits are sought for new structures or the alteration, movement, enlargement, replacement or installation of new lighting systems.

Sec. ____-3.2. Exterior and Interior Lighting Affixed to New Structures, New Construction and Improvements to Existing Structures

1. All lighting affixed to the exterior of new permanent structures, construction or additions shall be long wavelength, downward directed, full cutoff, fully shielded and mounted as close to the ground or finished floor surface as possible to achieve the required foot-candles.
2. As an exception to -3.2.1. above, non-egress lighting may be affixed to the landward exterior of permanent structures provided that the fixtures are fitted with a long wavelength source and are not directly, indirectly, or cumulatively visible from any portion of the beach.

3. Lighting at egress points shall be limited to the minimum number of fixtures and foot-candles necessary to meet federal, state, and local safety requirements.
4. Locations including but not limited to stairwells, elevators, parking garages, or courtyards shall not produce light that is directly, indirectly, or cumulatively visible from any portion of the beach. Light screens, shades or curtains shall be used to block visibility of interior lights from the beach. Light screens shall be used on open or enclosed staircases on the seaward or shore-perpendicular side of a building or for parking garages to limit visibility of lights from the nesting beach.
5. All glass windows, walls, railings and doors on the seaward and shore-perpendicular sides of any new construction shall use tinted glass with an inside to outside light transmittance value of 45 percent or less.

Guidance: Local governments may apply special considerations to control interior lighting from being directly visible from the beach.

6. Emergency lights are not subject to the above standards if on a separate circuit and activated only during power outtages or other situations in which emergency lighting is necessary for public safety.

Sec. ____-3.3. - Outdoor Areas

1. All lighting of outdoor areas shall be long wavelength, downward directed, full cutoff, fully shielded and mounted as close to the ground or finished floor surface as possible to achieve the required foot-candles.
2. Lighting of paths, walks and routes of building access shall use low level fixtures such as step, paver, path, recessed wall or bollard lights. Bollard lights are not to exceed 42 inches in height and other low level fixtures are to meet the height requirements of FWC's Wildlife Lighting Guidelines. Fixtures shall be downward directed and utilize long wavelength lamps and beachside shields.
3. As an exception to -3.3.1. above, non-egress outdoor lighting may be installed landward of buildings or other opaque structures provided that they are fitted with long wavelength light sources and are not directly, indirectly, or cumulatively visible from any portion of the beach.
4. Internally or externally lighted signs shall not be located on the seaward and shore-perpendicular sides of any structures, and shall not produce light that is directly, indirectly, or cumulatively visible from any portion of the beach.
5. Ponds and fountains on the seaward and shore-perpendicular sides of any structures shall not produce light that is directly, indirectly, or cumulatively visible from any portion of the beach.
6. Fire pits located on the seaward and shore-perpendicular sides of any structure shall be shielded with an opaque structure or partition, and positioned such that the flame is not directly, indirectly, or cumulatively visible from any portion of the beach. Bonfires and bonfire pits are prohibited within sea turtle nesting habitat during sea turtle nesting season.
7. Televisions or other illuminated screens shall be located landward of the dune and shall be shielded or positioned such that they are not directly, indirectly, or cumulatively visible from the beach.

Sec. ____-3.4. - Parking Areas and Roadways

1. All lighting of parking areas and roadways shall be long wavelength, downward directed, full cutoff, fully shielded, and mounted to the minimum level required to maintain compliance with federal, state and local law.
2. Parking area and roadway lighting shall be shielded from the beach via vegetation, natural features, or artificial structures rising from the ground. These shall prevent artificial light sources, including but not limited to vehicular headlights, from producing light that is directly, indirectly, or cumulatively visible from any portion of the beach.
3. Lighting of roadways and parking areas shall produce no more lighting than the minimum requirement as outlined by federal, state and local law.
4. Lighting of parking areas and roadways shall consist of either:
 - a. Ground-level downward-directed fixtures, equipped with interior dark-colored, non-reflective baffles or louvers, mounted either with a wall mount, on walls or piles, facing away from the beach, or
 - b. Bollard-type fixtures, which do not extend more than 42 inches above the adjacent floor or deck, measured from the bottom of fixture, equipped with downward-directed louvers that completely hide the light source, and externally shielded on the side facing the beach, or
 - c. Pole-Mounted Lights, if required, shall adhere to the restrictions located in subsection -3.4.5.
5. Pole-mounted lights shall only be used in parking areas and roadways when mounting the lights at lower elevations cannot practicably comply with minimum light levels set forth in applicable federal and state laws designed to protect public safety. If required, pole-mounted lights shall be:
 - a. Located on the landward sides of buildings and shall not produce light that is directly, indirectly, or cumulatively visible from any portion of the beach,
 - b. Mounted at the minimum height required to meet the minimum light level requirement-, and
 - c. Downward-directed onto non-reflective surfaces.

Guidance: Roadway and parking area lighting designed pursuant to Section 231.2.1 Wildlife-Sensitive Conventional Lighting of the Florida Department of Transportation (FDOT) Design Manual (January 1, 2020) available at <https://www.fdot.gov/roadway/fdm/default.shtm>, and meeting the requirements of Section 992-2.4.2, Luminaires for Wildlife-Sensitive Conventional Lighting, of the FDOT "Standard Specifications for Road and Bridge Construction (January 2020)," and available at <https://www.fdot.gov/programmanagement/implemented/specbooks/default.shtm>, are expected to meet the minimum standards of this section.

6. Equipment yards, storage yards, and temporary security lights shall also adhere to the lighting restrictions contained in this Section.

Sec. ____-3.5. - Pool Areas

1. Lighting of pool decks, pool facilities, swimming pools, and spas shall be long wavelength and fully shielded.
2. Lighting of the pool water surfaces and the pool wet deck surfaces shall comply with the minimum light levels set forth in applicable federal and state laws designed to protect public safety.
3. Above-water lighting of pool decks, pool facilities, swimming pools, and spas shall otherwise adhere to the applicable requirements for acceptable light fixtures contained in Section 1 and Section 2 of this Section.
4. Underwater lighting of pools or spa light shall:
 - a. Be mounted horizontally in the wall,
 - b. Not produce light that is directly, indirectly, or cumulatively visible from any portion of the beach, and
 - c. Shall comply with minimum light levels set forth in applicable federal and state laws designed to protect public safety.

Sec. ____-3.6. - Beach Access Points and Dune Walkovers

1. Lighting of beach access points shall be located and configured to only illuminate areas landward of the beach and frontal dune. All lighting of beach access points shall be long wavelength, downward directed, full cutoff and fully shielded and shall not be directly, indirectly, or cumulatively visible from the beach.
2. Lights are allowable on dune walkovers or elevated boardwalks only as required for building code purposes and may only be installed landward of the frontal dune. Walkover lighting shall not be directly, indirectly or cumulatively visible from the beach.

Sec. ____-3.7. – Existing Exterior and Interior Lighting

1. Reduce or eliminate the negative effects of existing exterior artificial lighting through the following measures:
 - a. Reposition, modify or remove existing lighting fixtures so that the point source of light or any reflective surface of the light fixture is no longer directly, indirectly or cumulatively visible from the beach;
 - b. Replace fixtures having an exposed light source with fully shielded fixtures;
 - c. Replace any light source, light bulb or lamp that is not long wavelength (e.g. incandescent, fluorescent, or high intensity lighting) with the lowest wattage long wavelength (e.g. LED or low pressure sodium) light source or lamp available for the specific application;

- d. Replace non-directional fixtures with directional fixtures that point down and away from the beach;
 - e. Provide shields for fixtures visible from the beach and not practical to immediately be replaced. Beachside shields are to cover 270 degrees and extend below the bottom edge of the fixture on the seaward side so that the light source or any reflective surface of the light fixture is not visible from the beach;
 - f. Replace pole lamps with low-profile, low-level luminaries so that the light source or any reflective surface of the light fixture is not visible from the beach;
 - g. Plant or improve vegetation buffers between the light source and the beach to screen light from the beach;
 - h. Construct a ground level barrier landward of the beach and frontal dune to shield light sources from the beach. Ground-level barriers are to be considered a last resort when no other remediation of the light source is feasible. Ground level barriers may be subject to state coastal construction control line regulations under section 161.053, Florida Statutes, and must not interfere with sea turtle nesting or hatchling emergence, or cause short- or long- term damage to the beach and dune system;
 - i. Permanently remove or permanently disable any fixture which cannot be brought into compliance with the provisions of these standards.
2. Take one or more of the following measures to minimize interior light emanating from doors and windows within line-of-sight of the beach:
- a. Apply window tint or film that meets the light transmittance standards for tinted glass;
 - b. Rearrange lamps and other moveable fixtures away from windows;
 - c. Use opaque shades or room darkening window treatments (e.g., blinds, curtains, screens) to shield interior lights from the beach.

Guidance: In order to provide the highest level of protection for nesting marine turtles and their hatchlings, local governments are directed to adopt all of the above standards for existing artificial beachfront lighting sources.

Sec. ____-3.8. – Pier Structures

- 1. Lighting of pier structures projecting over the beach or over water shall be long wavelength, downward-directed, and fully shielded.
- 2. Lighting of pier structures projecting over the beach, or over water, shall be mounted no higher than 42 inches above the deck surface. These shall be directed onto the deck surface only, preventing light pollution or light spillage beyond the walking surface.
- 3. Lighting of pier structures projecting over the beach or over water shall comply with minimum light levels set forth in applicable federal and state laws designed to protect public safety.

Guidance: Note that the pier light standards do not address light sources from illuminated screens or signage associated with restrooms or bait shops on piers.

Sec. ____-3.9. - Special Events, Motor Vehicles, and Temporary Lighting

1. Lighting associated with a special event that may directly, indirectly, or cumulatively be visible from any portion of the beach shall not be authorized at nighttime during sea turtle nesting season.
2. The operation of all motorized vehicles, except emergency and law enforcement vehicles or those permitted on the beach for sea turtle conservation in accordance with Florida Statute 379.2431 (1), or other research and conservation, shall be prohibited on the beach at nighttime during sea turtle nesting season.
3. Within sea turtle nesting season, temporary work zone lighting for roadway construction and during declared emergencies shall be directed away from the beach to avoid illumination of or direct visibility from the beach. Work zone luminaires shall be shielded to avoid lighting areas outside of the immediate construction area.
4. All other temporary construction lighting shall be:
 - a. Inclusive of all the standards of this Section, including using fixtures that are long wavelength, downward directed, full cutoff, and fully shielded so light is not directly or indirectly visible from the beach, and
 - b. Turned off during nighttime in sea turtle nesting season, or if authorized by the *Beach Lighting Inspector* during sea turtle nesting season, shall only be allowed from 6:00am to 9:00pm, must be restricted to the minimal amount necessary, and shall incorporate all the standards of this Section, and
 - c. Mounted less than eight feet above the adjacent floor or deck, measured from the bottom of fixture, and
 - d. Restricted to the minimal number of foot-candles necessary to conform to the applicable construction safety regulations.
5. Handheld and other portable temporary lighting shall not be directed toward or used in a manner that disturbs sea turtles or other coastal wildlife.

SECTION ____-4. - COMPLIANCE AND ENFORCEMENT PROCEDURES

Sec. ____-4.1. - Beach Lighting Inspector

1. A position, known as the **City/County of _____** *Beach Lighting Inspector*, is hereby established.

Guidance: While the model creates a beach lighting inspector, local governments may choose to identify someone already on staff, such as a code enforcement officer, for the position. It is

most important that the designated individual receive appropriate training.

2. It shall be the duty of the City/County Manager to appoint the *Beach Lighting Inspector*. The *Beach Lighting Inspector* shall have the necessary training, technical knowledge, and resources to enable them to effectively carry out the duties of this office. The *Beach Lighting Inspector* may access resources provided by other local, state or federal agencies such as the *Sample Beach Lighting Survey Worksheet*, training, and other information available from the Florida Fish and Wildlife Conservation Commission.
3. The *Beach Lighting Inspector* shall be responsible for:
 - a. Inspecting the entire beach within the jurisdictional boundaries of the **City/County of _____** regularly during sea turtle nesting season to determine the extent of compliance with this Ordinance.
 - b. In the event of the finding of a violation at a particular public or private property, conducting further inspections at the property at any time beginning on the night after the deadline date given on the written notice of violation. These follow-up inspections shall continue until the lighting has been brought into compliance with this Ordinance.
 - c. *Beach Lighting Inspector* responsibilities may also include preparation of reports, issuance of non-compliance notices, outreach and education, supporting administrative actions before a review board or special magistrate, or attending building permit pre-application and pre-construction conferences.

Guidance: At minimum, night time lighting surveys and compliance inspections are recommended before and during sea turtle nesting season. Compliance inspections that are conducted frequently throughout the nesting season may be beneficial to local governments in identifying and addressing noncompliant lighting.

4. It shall be unlawful for any person to interfere with, or in any manner hinder the *Beach Lighting Inspector*, or any of their assistants, while in the discharge of their duties under the terms of this Ordinance.
5. It shall be unlawful for any person to knowingly conceal or disable any lighting on a property before it has been inspected by the *Beach Lighting Inspector*.

Sec. ____-4.2. - Notice of Violation

1. Upon finding any violation of this Ordinance, the *Beach Lighting Inspector* shall deliver a written notice of the violation of this Ordinance to the property owner and direct said owner to promptly remove or remediate lighting not in compliance with this Ordinance.
2. The time allowed for making the repairs shall be stated in the notice and should the responsible party neglect or refuse to remove or remediate non-compliance within the specified time stated in the notice, the party so offending shall commit a violation of this Ordinance and be penalized as provided in Subsection ____-4.3 of this Ordinance.

Sec. ____-4.3. - Penalties

1. Any person who takes any action or omission in violation of any provision of this Ordinance and fails to resolve such violation after proper notice is provided, shall be subject to a fine of up to \$ ____ per day per violation for initial violations, and \$ ____ per day per violation for repeat violations. All penalties incurred as a result of violation of this Ordinance shall continue to accrue until such violations are cured.
2. The **City/County of** _____ shall have the right to encumber such property in violation of this Ordinance with a lien for an amount equal to the total amount of fines owed at the time such lien is recorded.

Sec. ____-4.4. - Sea Turtle Fund

1. A *Sea Turtle Fund* is hereby established within the **City/County of** _____.
2. All funds collected as a result of the issuance of fines under Section 3 of this Part shall be deposited in the *Sea Turtle Fund*. The funds in this account shall be used for:
 - a. Assistance to property owners for the procurement of light systems equipment and materials that comply with this Ordinance and reduce the amount of artificial beach lighting,
 - b. Educational materials to inform the general public on the threats of artificial lighting to sea turtles, including but not limited to signs, door knockers, pamphlets, stickers, public service announcements, and other awareness campaigns, and
 - c. Equipment, materials and other resources supporting compliance assistance and enforcement by the *Beach Lighting Inspector*.
 - d. Other reasonable efforts to protect the sea turtle population within the **City/County of** _____, including but not limited to research and conservation projects.
3. The **City/County of** _____ may contribute funding from other sources into the *Sea Turtle Fund* for uses consistent with the purposes set forth above.

SECTION ____-5. - OTHER CLAUSES

Sec. ____-5.1. - Conflict with Other Ordinances

If this Ordinance conflicts with any other Ordinance or requirement of the **City/County of** _____, then this Ordinance shall control during sea turtle nesting season. Deviations from this Ordinance shall be subject to the variance procedures as established by this City/County.

Sec. ____-5.2. - Severability

If any Section or Subsection of this Ordinance is invalidated for any reason, the effected portion may be eliminated or modified to correct the reason of invalidation, if feasible without materially altering or negating the Ordinance Goals and the principles of sea turtle lighting.

Sec. ____-5.3. - Effective Date

The **City/County of** _____ Lighting Ordinance for Sea Turtle Protection shall become effective upon recommendation by _____ and approval by the _____.

FWC SEA TURTLE LIGHTING GUIDELINES

These guidelines provide general information for all property owners living adjacent to sea turtle nesting beaches, but they are specifically designed to help property owners required to avoid and minimize lighting impacts to sea turtles as part of the State permitting programs, such as Coastal Construction Control Line (CCCL) permits and Environmental Resource Permits (ERP). In the permitting process, property owners must minimize all lights that may be visible from the beach, including all exterior, structural, decorative, and landscape lighting. This includes interior light visible through glass windows, doors and walls (either facing or perpendicular to the beach) as well as light from pools, fire pits, electronic devices such as televisions, tiki torches, etc.

FWC recommends beachfront property owners follow the **three golden rules**, “**Low-Shielded-Long**” when installing or modifying lights. All three must be used in combination to be effective, as they are all equally important!

KEEP IT LOW

- Fixtures must be mounted as **low as possible** to achieve required light levels.
- Bulbs must produce the **lowest wattage/lumens** necessary for the needed purpose.

KEEP IT SHIELDED

- Fixtures must be completely downward-directed.
- Fixtures must shield the bulb, lamp, or glowing lens from the beach.

BAD EXAMPLE: Unshielded bulb



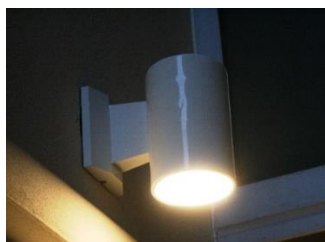
GOOD EXAMPLE: Shielded bulb with Amber LED (long-wavelength, 560 nm or higher)



KEEP IT LONG

- Lamp/Bulb must produce only **long wavelength light** (560 nm or greater, which is amber, orange, or red)
 - **The Best Current Technology:** Red LED, Orange LED, Amber LED, Low Pressure Sodium (LPS)
 - Please note, phosphorus converted bulbs, such as PC amber bulbs are not true long wavelength light sources, since there are wavelength readings below 560 nm.

BAD: Incandescent bulb



GOOD: Amber Bulb (long-wavelength, 560nm or higher)



Acceptable Fixtures

All exterior lights proposed for the seaward or shore perpendicular side of the structure should be well-shielded, full cut-off, downward directed fixtures with a long-wavelength light source (wavelength readings of 560 nanometers (nm) or higher).

If the exterior fixtures on the landward side of the structure are **not** visible directly or indirectly from the beach, they are only required to be downward directed.

How effective are full cut-off fixtures?

Below, look at an unshielded fixture and a full cut-off fixture side-by-side. The acorn light on the left wastes about 60% of the light into the sky. The one on the right is a full-cut off fixture with a recessed bulb, which provides more light on the ground. This is a good example of how full-cut off fixtures are not only good for sea turtles, but also for human safety because they direct light where it is needed, on the ground. To make the full cut-off example even better, it should be fitted with a shield that blocks light on the beachside and a long-wavelength lamp/bulb.



Acceptable Lamps / Bulbs

All fixtures visible from the beach should have a long-wavelength lamp – a bulb that looks amber or red because it only produces light with wavelengths of 560 nm or higher. White light such as metal halide, halogen, fluorescent, mercury vapor and incandescent lamps can disorient nesting sea turtles and their hatchlings, leading them away from the water. The following fixtures will minimize – but not totally remove – the risk of disorientation if properly installed in a well shielded, downward directed fixture.

- Low Pressure Sodium (LPS): 18W, 35W
- Red, Orange or Amber LED (true red, orange or amber diodes, NOT FILTERS)
- True red neon
- Other light sources that produce light of 560 nm or greater

HINT: LEDs tend to be much brighter than incandescent bulbs, so be sure not to over light an area!

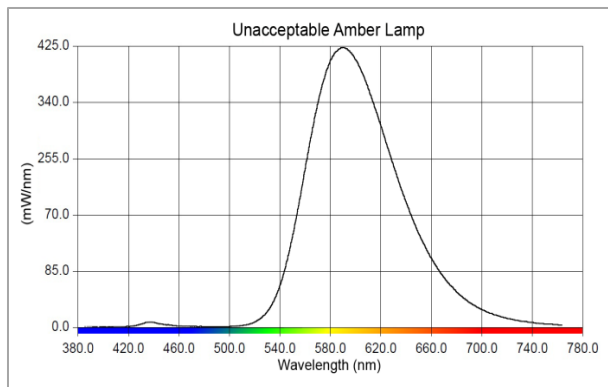
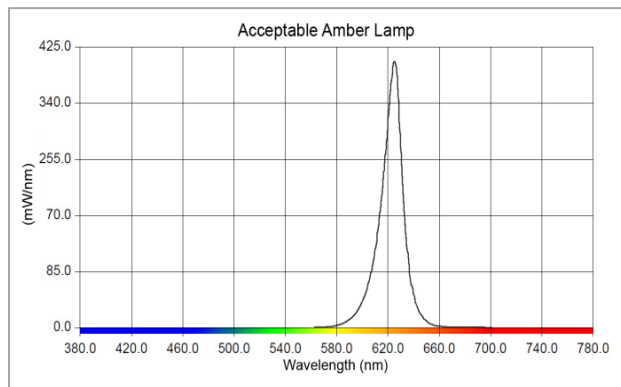
Upon review and approval by FWC, use of shorter wavelength lights may be allowed in limited areas where direct and indirect light or glow would not be visible from the beach.

A list of the Florida Fish and Wildlife Conservation Commission's Certified Wildlife Lighting, which includes acceptable lamps/bulbs for fixtures, can be found [here](#).

How can I tell if it is a long-wavelength light source?

Specifications for the wavelength is available from the manufacturer. Specifically, you can request a spectral distribution graph, as seen below.

The graph on the left displays an **acceptable** wavelength reading for a long-wavelength light source (i.e. amber lamp), with wavelength readings above 560 nm or higher. The graph on the right displays an **unacceptable** wavelength reading, with wavelength readings below the 560 nm cutoff.



Minimizing Light

Even though a fixture/lamp combination may be Low-Shielded-Long, too many fixtures may still result in sea turtles becoming disoriented. In addition to the lowest wattage necessary for safety, light can also be minimized by installing fewer fixtures.

- Use the lowest wattage necessary.
- Use a minimal number of fixtures.
- Use only if needed for safety.

Why do I need to minimize long-wavelength light?

A common misconception is that long-wavelength lighting (i.e. LPS, Red, Orange or Amber LEDs) is not visible to sea turtles. This is FALSE. Long-wavelength lighting is less disruptive than white light, but even long-wavelength lighting that is too bright may cause impacts to sea turtles and their hatchlings! Therefore, we recommend only utilizing lights that may be visible from the beach if there are state or federal requirements for specific light levels to ensure public safety (such as stairs or egress/ingress walkways).

We **do not recommend** the following types of lighting, since they are not needed for safety:

- Private balcony lights
- Pond lights
- Tree Strap Downlights
- Fountain lights on seaward or shore perpendicular side of a structure
- Up lights
- Dune Walk over lights
- Decorative Lighting

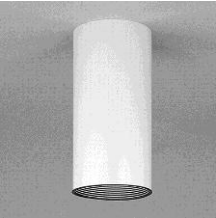
Impacts from interior lighting

State rules require that tinted glass or film with a visible light transmittance value of forty-five (45) percent or less (inside to outside) must be used on all glass windows, doors and walls within line of sight of the beach, usually the seaward and shore-perpendicular sides of the structure. However, since those rules were passed, there are now better options because of advances in tinting and more information on sea turtle disorientations. Window tints/film with transmittance values lower than 45% are available that are energy efficient, pleasing and easily seen through. **The best option for minimizing lighting impacts to sea turtles is 15% transmittance**, with 25-30% transmittance the most popular. Many local lighting ordinances require that interior lights cannot be visible from the beach; therefore, the use of higher transmittance tints (such as 45%) often requires installation of additional window treatments to achieve compliance with the ordinance.

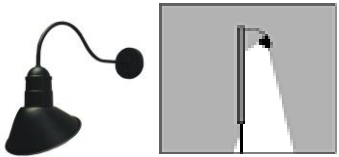
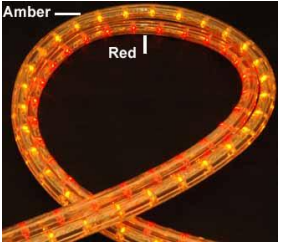
If the information above is followed, your home or building is not expected to adversely impact nesting sea turtles, their hatchlings or their habitat. Thank you for doing your part to protect Florida's sea turtles!

*Please email Wildlifelighting@MyFWC.com if you need additional information or help.

EXAMPLES OF TURTLE FRIENDLY FIXTURES

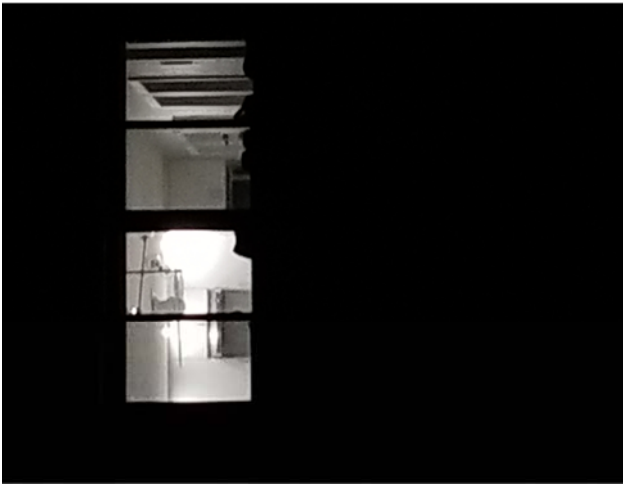
FIXTURE	LAMP & WATTAGE	MOUNTING TYPE & HEIGHT	LOCATION	COMMENTS and/or ADDITIONAL REQUIREMENT
Ceiling Mount Cylinder (with interior black baffles) 	Red/orange/amber LED	Ceiling Surface	If located on shore perpendicular or beach side of structure allow on <u>ground floor</u> only	Interior Black Baffles
Wall Mount Cylinder Down Light (with interior black baffles) 	Red/orange/amber LED	Wall Mount Downward Directed 8 ft from floor	If located on shore perpendicular or beach side of structure allow on <u>first habitable floor</u> only	Interior Black Baffles Hex cell louvers may be required to decrease wall wash
Recessed Ceiling Canister 	Red/orange/amber LED <u>The following short wavelength lamps may only be used for covered driveway entry on landward side of structures</u> • Halogen lamp • PAR spot lamps • LED lamps • HPS lamps • Compact Fluorescent	Recessed Ceiling	If located on shore perpendicular or beach side of structure allow on <u>ground floor</u> only	Interior black baffles Hex cell (honeycomb) louver

Recessed and Wall Mounted Step Lights (louwered or downward directed) 	Red/orange/amber LED	Wall Mount Maximum height 24 inches on Ground Floor only Above Ground Floor Max height 12 inches	Ground floor, second level, and pool Deck	If on perimeter of pool deck, must be mounted directed away from beach.
Bollard (with downward directed louvers) 	18w LPS Red/orange/amber LED	Maximum height 42 in	Parking areas, commercial walkway, landscape, pathway and pool deck	180° to 270° beach side shields on any fixture on perimeter of pool deck or immediately adjacent to beach.
High Intensity Full Cut Off Pole Lights 	18-35 w LPS (if twin head, maximum of 36w total) Orange/amber LED	Pole - maximum height 12 feet	Parking area Landward side of structure only.	Beach side shields and/or louvers for any fixture within line of sight of beach.
Paver Lights 	Red/orange/amber LED	In ground mount	Parking areas, driveways, pathways, pool decks	

Landscape/Pathway Lighting 	Red/orange/amber LED	Ground mount Maximum height 12 inches	Ground Level, landscape	
Signage 	Red/orange/amber LED	Must be mounted with light directed <u>down</u> on to sign. NOT UP	Sign should be on landward side of structure when possible and mounted perpendicular to the beach.	
Garage Lighting (Phoenix) 	35w LPS Amber/Orange/Red LED	Garage Ceiling	Garage	If a parking garage is not fully enclosed with solid walls, without windows, louvers, or screens so that the interior is not visible from any section of beach, only LPS or amber/orange LED lamps shall be used. Additional shields may be necessary if parking is above ground level.
Channel / Rope Lighting 	Red/orange/amber LED <u>NOT colored plastic tubing with white lights</u> <u>No White LED</u>	Must be mounted recessed under steps, bar, etc. and directed <u>down</u> to assure that light source or reflected light is not visible from beach	Pool deck, steps, pool bars.	

Water Feature Lighting 	Red/orange/amber LED	Light must be downward or horizontally directed <u>DO NOT</u> <u>direct light up</u>	Submerged lights are only allowed on landward side of structure and only if fully shielded from beach by structure	
Underwater Swimming Pool Lighting 	Red/orange/amber LED			
Emergency Egress Lighting  	Red LED Exit signs Full cut off downward directed Emergency egress fixtures may use short wavelength lamps			Short wavelength lamped emergency egress fixtures must be specified on fixture schedule and plans to be on separate circuit that will only illuminate fixtures during power outage







1. Requested Motion:

Meeting Date: March 15, 2021

Second Reading and Final Public Hearing: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING CHAPTER 6 MAINTENANCE CODES, BUILDING CODES, AND COASTAL REGULATIONS OF THE LAND DEVELOPMENT CODE; AMENDING CHAPTER 34-1180 CREATING GARAGE DESIGN AND LOCATION STANDARDS; PROVIDING FOR SEVERABILITY; CODIFICATION; SCRIVENER'S ERRORS; CONFLICTS OF LAW AND PROVIDING AND AN EFFECTIVE DATE.

Why the action is necessary:

Changes in the Florida Building Code require updates to Chapter 6. Edits also include provisions and regulations whose purpose has been questioned in past LPA and Town Council discussions. The Town Council directed staff to create some limitations for garage doors and openings to replace the current language within Chapter 34 of the LDC.

What the action accomplishes:

Updates Chapter 6 and Chapter 34 of the Land Development Code.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Ordinance

4. Submitter of Information:

5. Background:

The Town of Fort Myers Beach Land Development Code Chapter 6 Maintenance Codes, Building Codes, and Coastal Regulations includes regulations related to local amendments to the Florida Building Code and licensing requirements. This amendment primarily includes updates to the local building code provisions that are outdated by several Code versions and necessary with the most recent implementation of the 2020 Florida Building Code. The amendments are generally located within Section 6-1 thru 6-330.

Additional provisions being eliminated or modified were identified as unnecessary, duplicative, or not appropriate for this chapter of the Land Development Code. One example includes removing the Residential code provision that limits access to enclosed areas by one standard two-car garage door.

During the first reading hearing, the Vice-Mayor asked questions about removal of the language and potential unintended consequences. Council provided direction to add language in an appropriate place that can address concerns about numerous garage doors. Staff has included an amendment to Ch 34 of the LDC, by adding Section 1180 Garages, to address the concerns. The new language restricts garages openings to single or double doors; and to limit the maximum number of consecutive stalls to three, and require a minimum of 8 feet wide architectural element, feature, or access separating additional doors. The maximum of three can be achieved with three singles or a double and a single combination.

Attachments:

1. 21-01 Chapter 6 Building Codes and Maintenance and Chapter 34 Garages (1)
2. Exhibit A - Chapter 6 Building and Maintenance Codes and Ch 34 Sec 1180 Garages

Financial Impact:

6. **Alternative Action**

Recommend approval / approval with modifications / denial

7. **Management Recommendations:**

Approve

8. **Recommended Approval:**

Jason Green, Community Development Services
Jason Green, Community Development Services
John R Herin Jr, Town Attorney
Amy Baker, Town Clerk
Roger Hernstadt, Town Manager

Created/Initiated - 3/8/2021
Approved - 3/8/2021
Approved - 3/11/2021
Approved - 3/11/2021
Final Approval - 3/11/2021

ORDINANCE NO. 21-01

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING CHAPTER 6 MAINTENANCE CODES, BUILDING CODES, AND COASTAL REGULATIONS OF THE LAND DEVELOPMENT CODE; AMENDING CHAPTER 34-1180 CREATING GARAGE DESIGN AND LOCATION STANDARDS; PROVIDING FOR SEVERABILITY; CODIFICATION; SCRIVENER'S ERRORS; CONFLICTS OF LAW AND PROVIDING AND AN EFFECTIVE DATE

WHEREAS, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purpose, except when expressly prohibited by law; and

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

WHEREAS, the Town Council desires to update the Fort Myers Beach Land Development Code to clarify, improve, and create consistency among sections regarding maintenance codes, building codes, and coastal regulations; as well as to regulate aesthetics of garage openings; and

WHEREAS, on January 12, 2021 the Local Planning Agency, after giving consideration to the staff recommendation, public testimony, and consistency with the Comprehensive Plan, recommended approval of the proposed amendments; and

WHEREAS, on March 1, 2021 the Town Council held a first reading of the proposed Ordinance, after giving consideration to the staff recommendation, public testimony, and consistency with Comprehensive Plan, set a second and final reading of the Ordinance; and

WHEREAS, on March 15, 2021 the Town Council held a second reading of the proposed Ordinance and gave consideration of the staff recommendation, public testimony, and consistency with the Comprehensive Plan and adopted the Ordinance on final reading.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:¹

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

¹ Additions to existing text are shown by underline, changes to existing text on second reading are shown by double underline, and deletions are shown as ~~strikethrough~~.

Section 2. Chapter 6 and 34 of the Fort Myers Beach Land Development Code is amended as shown in “Exhibit A”

Section 3. The Town Council intends that the provisions of this ordinance be made a part of the Fort Myers beach Code of Ordinances, and that sections herein may be renumbered or re-lettered and the words or phrases herein may be changed to accomplish codification; regardless, typographical errors that do not affect intent may be corrected with notice to and authorization of the Town Manager without further process.

Section 4. Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive shall apply.

Section 5. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason, declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision will not affect the validity of the ordinance as a whole, or any part thereof, other than the part so declared.

Section 6. This Ordinance shall become effective 30 days from adoption by the Town Council.

The forgoing Ordinance was adopted by the Town Council upon a motion by _____ and seconded by _____, and upon being put on a roll call vote, the results was as follows:

Raymond P. Murphy, Mayor	_____
Rexann Hosafros, Vice Mayor	_____
Dan Allers, Council Member	_____
Jim Atterholt, Council Member	_____
Bill Veach, Council Member	_____

ADOPTED this 15th day of March, 2021 by the Town Council of the Town of Fort Myers Beach, Florida

TOWN OF FORT MYERS BEACH

Ray Murphy, 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:

John R. Herin, Jr., Town Attorney

This Ordinance was filed in the Office of the Town Clerk on this ____ day of March, 2021

EXHIBIT "A"

Chapter 6 - MAINTENANCE CODES, BUILDING CODES AND COASTAL REGULATIONS

ARTICLE I. - PROPERTY MAINTENANCE CODES

DIVISION 1. - INTERNATIONAL PROPERTY MAINTENANCE CODE

Sec. 6-1. - Adoption of International Property Maintenance Code.

Except as amended or modified in the sections below, the ~~2009~~ 2018 Edition of the International Property Maintenance Code, published by the International Code Council, is hereby adopted as the Town of Fort Myers Beach Property Maintenance Code and shall be the governing law with respect to all structures and premises in the Town of Fort Myers Beach. A complete copy of this code shall be maintained on file in the office of the town clerk.

Sec. 6-2. - Amendments.

The ~~2009~~ 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 of 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 ~~International~~ 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 an 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 m). 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 32, Article V of the Fort Myers Beach Land Development Code shall supersede the foregoing requirements (correct reference?).

(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."

Sec. 6-14. - Neighborhood flooding.

- (a) Chapter 10 of this code requires stormwater management systems for new development (see § 10-321). Development that is not subject to those requirements, such as single-family and two-family dwellings, detached structures, pools, pool decks, additions, pavers, driveways, patios, etc. on existing lots, can also flood surrounding lots and streets, especially if the lot is raised higher than adjoining properties or if rainfall is concentrated by gutters and downspouts and discharged without an opportunity for infiltration. The placement of fill on vacant properties have the potential to also cause surrounding lots and streets to flood and therefore when no other development permit is being obtained at the time fill is being brought to the site, a site fill permit must be obtained. The fill permit application must show how normal rainfall one inch (interior lot) - 1.6 inch (waterfront lot) will have an opportunity to infiltrate into the ground within the lot.

To minimize neighborhood flooding from normal daily rainfall, no more than 67 percent of the total lot area within a residential zoning district shall be covered with impervious surfaces. The plans must indicate the method used to maintain a one-inch (interior lot) or 1.6 inch (waterfront lot) rainfall on-site when more than 500 square feet of impervious surface is proposed.

- (1) Roof areas not served by gutters and downspouts must not drain to impervious surfaces, and must not drain to pervious surfaces that are sloped in excess of five percent. Surfaces not meeting these requirements must be designed to detain or deflect rainfall, for instance through the use of earthen ridges, curbs, or retaining walls that prevent average rainfall from running onto adjoining lots or streets.

DIVISION 2. - HOUSING CODE

Sec. 6-31. - Adoption; amendments.

The following chapters and sections of the 1997 Standard Housing Code, as published by the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama, 35213-1206, are hereby adopted by reference and made a part of this article, with the exceptions set forth as follows:

Chapter 1, Administration.

Exception: Section 103.2.2(4) is deleted and replaced with new section 103.2.2(4) as follows:

4. State that, if such repairs, reconstruction, alterations, removal or demolition are not voluntarily completed within the stated time as set forth in the notice, the housing official shall institute such legal and/or administrative proceeding as may be appropriate.

Exception: Section 103.4 is deleted and replaced with new section 103.4 as follows:

An officer or employee, or member of any board, charged with the enforcement of this code, in the discharge of his duties, shall not thereby render himself liable personally, and is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties.

Exception: Section 103.5 is deleted.

Exception: Section 104 is deleted and replaced with new section 104 as follows:

104 Inspections

The housing official shall make, or cause to be made, inspections to determine the condition of residential buildings and premises in the interest of safeguarding the health and safety of the occupants of such buildings and of the general public. For the purpose of making such inspections, the housing official, or his designee, is hereby authorized to enter, examine, and survey, at all reasonable times, any residential building or premises. If the owner, agent, tenant or other person in charge thereof refuses to allow the housing official, or his designee, free access to such building or premises, the housing official may obtain a duly issued search or administrative warrant, pursuant to F.S. ch. 933, as from time to time amended, or any other applicable law which may be in effect at the time such warrant is sought.

Exception: Sections 105, 106, and 107, relating to the housing board of adjustment and appeals, are deleted. Appeals and variances shall be processed and decided in the same manner as for variances under ch. 34 of the Land Development Code ~~this code~~. Enforcement of this code shall be in accordance with ch. 1.

Chapter 2, Definitions.

Exception: Delete the definition of "building" and "housing official" found in section 202 and replace with a new definition of "building" and "housing official" to be used when construing minimum housing provisions, as follows:

***Building** —Any structure built or used for shelter or enclosure of persons which has enclosing walls sheltering 50 percent or more of its perimeter. The term "building" shall be construed as if followed*

by the words "or part thereof" and shall include mobile homes, manufactured homes and all recreational vehicles which have been established as units for permanent living by the filing of a declaration of domicile with the clerk of the circuit court on or before October 21, 1985; provided, however, that the foregoing definition specifically excludes hotels and motels.

Housing official —The officer, or his duly authorized representative charged with the administration and enforcement of this code, which shall be the town manager or designee.

Chapter 3, Minimum Standards for Basic Equipment and Facilities.

Exception: Delete section 302.2 and replace with new section 302.2 as follows:

All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of same. The water closet, tub or shower, and lavatory shall be located in a room affording privacy to the user. Bathrooms shall be accessible from habitable rooms, hallways, corridors or other protected or enclosed areas.

Exception: The following language shall be added to section 302.5:

This section and its subsections shall only apply if the Standard Building Code (as published by the Southern Building Code Congress) and any local amendments thereto, required heating facilities at the time the building was constructed.

Exception: Delete section 302.5.3 and replace with new section 302.5.3 as follows:

Unvented fuel burning heaters shall be prohibited except for gas heaters listed for unvented use where the total input rating of the unvented heater is less than 30 BTU per hour per cubic foot of room content and provided that the gas heater is installed pursuant to the Gas Code as adopted herein at section 6-171. Notwithstanding the above, all unvented fuel-burning heaters shall be prohibited in bedrooms and sleeping areas.

DIVISION 3. - UNSAFE BUILDING ABATEMENT CODE

Sec. 6-36. - Adoption; amendments.

The following chapters and sections of the 1985 Standard Unsafe Building Abatement Code, as published by Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213-1206, are hereby adopted by reference and made part of this article, with the exceptions set forth as follows:

Chapter I, Administration.

Section 105, relating to the board of adjustment and appeals, is deleted, and replaced by the procedures set forth for the delegation of authority to Lee County's Construction Board of Adjustment and Appeals found in division 2 of article II of this chapter.

Chapter II, Definitions.

Chapter III, Inspection and Notice of Noncompliance.

Chapter IV, Appeals.

Chapter V, Rules of Procedure for Hearing Appeals.

Chapter VI, Implementation.

Chapter VII, Recovery of Cost of Repair or Demolition.

Exception: If the building official proceeds to demolish the building or structure as set forth herein, the town council shall, by proper resolution, assess the entire cost of such demolition and removal against the real property upon which such cost was incurred, which assessment, when made, shall constitute a lien upon the property superior to all others except taxes. The lien shall be filed in the public land records of the county. The resolution of assessment and lien must indicate the nature of the assessment and lien, the lien amount, and an accurate description of the property affected. The lien becomes effective on the date of filing such notice of lien and shall bear interest from such date at the rate of ten percent per annum. If the resulting lien is not satisfied within two years after the date it is filed, then the town may:

- (1) File suit to foreclose on the lien property as provided by law in suits to foreclose mortgages; or
- (2) Follow any other lawful process or procedure available for enforcement of the lien in accordance with any general law of the state relating to the enforcement of municipal liens.

ARTICLE II. - BUILDING CODES

DIVISION 1. - GENERALLY

Sec. 6-41. - Applicability of article.

This article applies to the incorporated area of the Town of Fort Myers Beach.

Sec. 6-42. - Penalty for violation of article; additional remedies.

Any person, or any agent or representative thereof, who violates any provision of this article shall, ~~upon conviction,~~ be subject to the following penalties set forth in the codes and ordinances of the Town of Fort Myers Beach. The town council may institute in any court, or before any administrative board of competent jurisdiction, action to prevent, restrain, correct or abate any violation of this article or of any order or regulations made in connection with its administration or enforcement, and the court or administrative board shall adjudge such relief by way of injunction, or any other remedy allowed by law, or otherwise, to include mandatory injunction as may be proper under all the facts and circumstances of the case in order to fully effectuate the regulations adopted under this article, or any amendment thereto, and any orders and rulings made pursuant thereto.

- (1) ~~Criminal penalties.~~ Such person shall be subject to punishment as provided in § 1-5 of this LDC.
- (2) ~~Civil penalties.~~ The town council may institute in any court, or before any administrative board of competent jurisdiction, action to prevent, restrain, correct or abate any violation of this article or of any order or regulations made in connection with its administration or enforcement, and the court or administrative board shall adjudge such relief by way of injunction, or any other remedy allowed by law, or otherwise, to include mandatory injunction as may be proper under all the facts and circumstances of the case in order to fully effectuate the regulations adopted under this article, or any amendment thereto, and any orders and rulings made pursuant thereto.

Sec. 6-43. - Conflicting provisions.

Whenever the requirements or provisions of this article are in conflict with the requirements or provisions of any other lawfully adopted ordinance, code or regulation, the provisions providing the greater degree of life safety will apply. Any conflict between the building code and applicable fire safety codes will be resolved by agreement between the building official and the fire official in favor of the requirement of the code which offers the greatest degree of life safety or alternative which would provide an equivalent degree of life safety and an equivalent method of construction.

Sec. 6-44. - Enforcing officers.

Designated officials such as the building official referenced by the codes adopted in this chapter shall be appointed by the town manager. The designated officials shall carry out the duties enumerated in these codes and shall be deemed the responsible officials with respect to enforcement of the provisions of these codes.

Sec. 6-45. - Permit fees.

The ~~T~~town ~~C~~ouncil has the power to determine and set reasonable permit fees. Unless a different fee schedule is set, permits fees shall be as referenced in ~~Lee County Administrative Code 3-10, Appendix C (External Fees and Charges Manual)~~Town of Fort Myers Beach Fee Schedule.

DIVISION 2. - LEE COUNTY'S BOARDS OF ADJUSTMENT AND APPEALS

Sec. 6-71. - Applicability of division.

This division shall include, but not be limited to, any contractor, owner, agent, manufacturer or supplier providing construction services or materials regulated by standard codes enforced by the Town of Fort Myers Beach.

Sec. 6-72. - Intent of division.

The town has adopted various standard codes relating to building, plumbing, mechanical, gas, electrical, unsafe buildings, housing and fire. This division is intended to be construed in conjunction with these codes.

Sec. 6-73. - Boards established; jurisdiction.

Lee County has established a construction board of adjustment and appeals known as the Lee County Board of Adjustment and Appeals ~~through chapter 6, article 2, division 2 of the Lee County Land Development Code~~. The purpose of that board is to hear and decide appeals from the decision of the county's building official and fire official or their designees on any of the various standard codes regulated and enforced by the county except the plumbing code and mechanical code. Lee County has also established separate boards of adjustment and appeals to arbitrate matters involving the plumbing code and mechanical code.

Sec. 6-74. - Delegation of authority to Lee County's Boards of Adjustment and Appeals.

- (a) The Town of Fort Myers Beach hereby delegates to each of the three Lee County Boards of Adjustment and Appeals the authority to make decisions on appeals that may be filed in accordance with § 6-80 of this division.
- (b) The town attorney will provide legal advice to each of the three Lee County Boards of Adjustment and Appeals when warranted.

Sec. 6-80. - Right of appeal; notice of appeal.

- (a) Whenever the building official or fire official or their designees shall reject or refuse to approve the mode or manner of construction to be followed or materials to be used, or when it is claimed that the provisions of a code do not apply, or that an equally good or more desirable form of construction can be employed in any specific case, or when it is claimed that the true intent and meaning of a code or any of the regulations thereunder have been misconstrued or wrongly interpreted, the owner of such building or structure, or his duly authorized agent, may appeal from the decision of the building official or fire official or their designees to Lee County's appropriate Board of Adjustment and Appeals. Notice of appeal shall be in writing and filed within 30 days after the decision is rendered by the building official or fire official or their designees. All requests for appeal shall be on forms provided by the building official with payment of the appropriate fee.

- (b) In the case of a building or structure which in the opinion of the building official is unsafe or dangerous, the building official may, in his order, limit the time for such appeal to a shorter period.

Sec. 6-81. - Variations and modifications.

- (a) Lee County's Boards of Adjustment and Appeals, pursuant to an appeal from a decision of the building official or fire official or their designees, may vary the application of a code to any particular case when, in its opinion and based upon sufficient evidence, the enforcement thereof would do manifest injustice and would be contrary to the spirit and purpose of a code or public interest, or when, in its opinion and based upon sufficient evidence to the contrary, the interpretation of the building official or fire official or their designees should be modified or reversed.
- (b) Any decision of Lee County Boards of Adjustment and Appeals to vary the application of any provision of a code or to modify an order of the building official or fire official or their designees shall specify the variation or modification made, the conditions upon which it is made, and the reasons therefor.
- (c) Variances to the floodplain regulations must meet the additional criteria in article IV of this chapter.

Sec. 6-82. - Decisions.

- (a) Every decision of Lee County's Boards of Adjustment and Appeals shall be final; subject, however, to any remedy an aggrieved party might have at law or in equity. Every decision shall be in writing and shall indicate the vote upon the decision. Every decision of Lee County's Boards of Adjustment and Appeals shall be signed and attested to by the chairman of the board.
- (b) Lee County's Boards of Adjustment and Appeals shall, in every case, reach a decision without unreasonable or unnecessary delay.
- (c) If a decision of any of Lee County's Boards of Adjustment and Appeals reverses or modifies a refusal, order or disallowance of the building official or fire official or their designees, or varies the application of any provision of a code, the appropriate official shall immediately take action in accordance with such decision.
- (d) Any aggrieved person may obtain judicial review of the decision of Lee County's Boards of Adjustment and Appeals by filing a petition for writ of certiorari in the circuit court. Such petition must be filed within 30 calendar days after the board of adjustment and appeals' decision, but not thereafter, pursuant to the Florida Rules of Civil Procedure. The original petition for writ of certiorari must be filed with the clerk of the circuit court. Copies of the petition shall be filed with the building official for forwarding to the town attorney.

DIVISION 3. - BUILDING CODE

Sec. 6-111. - Adoption; amendments.

The Florida Building Code is hereby adopted by reference and made a part of this article, including all revisions and amendments approved in accordance with state law, with the exceptions set forth as follows:

Chapter 1, Administration.

Sections 103.1 through 103.6 relating to powers and duties of the building official are added as follows:

103.1 General. The building official is hereby authorized and directed to enforce the provisions of this code and building codes adopted by the state of Florida. The building official has the authority to

render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures must be in compliance with the intent and purpose of this code, and may not have the effect of waiving requirements specifically provided for in this code.

103.2 Right of entry.

103.2.1 Whenever necessary to make an inspection to enforce any of the provisions of this code, or whenever the building official has reasonable cause to believe that there exists in any building or upon any premises any condition or code violation which makes such building, structure, premises, electrical, gas, mechanical, or plumbing systems unsafe, dangerous, or hazardous, the building official may enter such building, structure, or premises at all reasonable times to inspect the same or to perform any duty imposed upon the building official by this code. If such building or premises are occupied, he must first present proper credentials and request entry. If such building, structure, or premises are unoccupied, he must first make a reasonable effort to locate the owner or other persons having charge or control of such and request entry. If entry is refused, the building official has recourse to every remedy provided by law to secure entry.

103.2.2 When the building official has obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care, or control of any building, structure, or premises may fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the building official for the purpose of inspection and examination pursuant to this code.

103.3 Stop work orders. Upon notice from the building official, work on any building, structure, electrical, gas, mechanical, or plumbing system that is being done contrary to the provisions of this code, or in a dangerous or unsafe manner, must immediately cease. Such notice must be in writing and posted on the permit board, stating the reasons for the order. Work may only resume after lifting of the stop work order by the building official.

103.4 Revocation of permits. The building official is authorized to suspend or revoke a permit issued under the provisions of this code wherever the permit is issued in error or on the basis of incorrect, inaccurate, or incomplete information, or in violation of any ordinance or regulation or any provision of this any code of the Town of Fort Myers Beach.

103.4.1 Misrepresentation of application. The building official may revoke a permit or approval issued under the provisions of this code if there has been any false statement or misrepresentation as to a material fact in the application or plans on which the permit or approval was based.

103.4.2 Violation of code provisions. The building official may revoke a permit upon determination by the building official that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the building, structure, electrical, gas, mechanical, or plumbing systems for which the permit was issued is in violation of, or not in conformity with, the provisions of this code.

103.5 Unsafe buildings or systems. All buildings, structures, electrical, gas, mechanical, or plumbing systems which are unsafe, unsanitary, or do not provide adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use, constitute a hazard to safety or health, are considered unsafe buildings or service systems. All such unsafe buildings, structures or service systems are hereby declared illegal and must be abated by repair and rehabilitation or by demolition in accordance with the provisions of the Unsafe Building Abatement Code (see article I of this chapter).

103.6 Requirements not covered by code. Any requirements necessary for the strength, stability, or proper operation of an existing or proposed building, structure, electrical, gas,

mechanical, or plumbing system, or for the public safety, health, and general welfare, not specifically covered by this or the other technical codes, will be determined by the building official.

Section 104.1.4 is amended to read as follows:

104.1.4. Minor repairs.

Ordinary minor repairs, routine maintenance, or incidental work of a nonstructural nature may be made without a permit, provided that such repair shall not violate any of the provisions of the technical codes. For purposes of this section, "ordinary minor repairs" include the replacement of damaged or worn materials by similar new materials and any other repairs defined as such by the building official. Ordinary minor repairs under this section may not involve the cutting of any structural beam or supporting member or include any alterations that would increase habitable floor area, change the use of any portion of the building, remove or change any required means of egress or exit access, or affect the structural integrity or fire rating of the building.

Section 104.1.6, relating to time limitations, is amended to add the following:

104.1.6.1 A permit issued shall be construed to be a license to proceed with the work but shall not be construed as authority to violate, cancel, alter or set aside any of the provisions of this code, nor shall such issuance of a permit prevent the building official from thereafter requiring a correction of errors in plans or in construction or of violations of this code. Although a permit issued to an owner is transferable to another owner, actual notice of the transfer of permit shall be given to the building official prior to the transfer. Building permits shall be issued following the approval of site and construction plans. Building permits on multifamily projects shall be issued on each individual building or structure. Multitenant occupancies, including but not limited to shopping malls, may be permitted on an individual building or structure (shell); however, individual permits shall be used separately for tenant spaces.

104.1.6.2 The first inspection required by the permit must be successfully completed within a six-month period of issuance or the permit shall be deemed invalid. All subsequent inspections shall be made within a six-month period of the most recent inspection until completion of work or the permit shall become invalid. For purposes of this section, the foundation inspection will be considered the first inspection.

104.1.6.3 The entire foundation must be completed within the first six months from the issuance of the permit. Partial inspections due to complexity of the foundation may be made with building inspector's approval, and job site plans shall be initialed by the inspector only on that portion of the plans that is inspected, and these inspections are for compliance to plans and specifications and are in no way to be construed as the first inspection. Subsequent inspections may be made until the entire foundation is completed. At that time, the foundation will be signed off as the first inspection. One or more extensions of the building permit for good cause may be granted by the building official on a project for a period not exceeding 90 days each. The request shall be made by written notice to the building official at least 30 days prior to expiration of the building permit. The building official may require compliance with any revised building code, mechanical code, plumbing code, electrical code, gas code, swimming pool code or fire code requirements in effect at the time of granting any extension to the building permit. Any extension request denied may be appealed to the town council by the applicant on a form provided by the building official. The council shall grant or deny the extension upon a finding of good cause or lack thereof. If granted, the extension or extensions shall not exceed a period of 90 days each.

Section 106.1.4 relating to new or changed land uses is added as follows:

106.1.4 New or changed land use. A certificate of occupancy will only be granted for a new or changed use of land if that use is allowable under ch. 34 of this code.

107.6.1 Building permits issued on the basis of an affidavit. Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 C.F.R. Sections 59 and 60), the authority granted to the Building Official to issue permits, to rely on inspections, and to accept plans and construction documents on the basis of affidavits and plans submitted pursuant to Section 105.14 and Section 107.6, shall not extend to the flood load and flood resistance construction requirements of the Florida Building Code.

117 VARIANCES IN FLOOD HAZARD AREAS

117.1 Flood hazard areas. Pursuant to F.S. § 553.73(5), the variance procedures adopted in the local floodplain management ordinance shall apply to requests submitted to the Building Official for variances to the provisions of Section 1612.4 of the Florida Building Code, Building or, as applicable, the provisions of R322 of the Florida Building Code, Residential. This section shall not apply to Section 3109 of the Florida Building Code, Building.

Florida Building Code, Building, Section 1612.2.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its before-damaged condition would equal or exceed 50 percent of the market value of the building or structure before the damage occurred. The term also includes flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the costs of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT. Any repair, reconstruction, rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.
2. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

Florida Building Code, Existing Building, Chapter 2.

SUBSTANTIAL IMPROVEMENT. Any repair, reconstruction, rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.
2. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

Florida Building Code, Residential, Section R322.

R322.1.11 Enclosed areas below design flood elevation. Enclosed areas, including crawl spaces, that are below the design flood elevation shall:

1. Be permitted to enclose up to 100 percent of the area below an elevated building and shall not extend beyond the perimeter of the building.
2. Have the interior portion of any enclosed area:

- a. Partitioned only to separate parking areas from building access or storage areas;
 - b. The minimum number of interior doors necessary for access to the stairway or elevator to the elevated buildings from areas used for parking or storage;
 - c. Not temperature-controlled.
3. Have access to enclosed areas intended for building access or storage by no more than one standard 36-inch exterior door, or one windowless 72-inch double exterior door, in any exterior wall.
 4. ~~Have access to enclosed areas intended for parking of vehicles by no more than one standard two-car garage door.~~
 5. Have construction documents include an agreement, signed by the owner, acknowledging the limitations on allowable uses of the enclosed areas and the conditions of the building permit, using a form provided by the Floodplain Administrator. This agreement shall be recorded in the official record books in the office of the clerk of the circuit court to provide additional notice of these limitations to future purchasers.

R322.1.12 Accessory structures. Accessory structures used for parking and storage shall be permitted below the base flood if designed and constructed in compliance with Section R322 and the total cost of an accessory structure does not exceed 10% of the market value of the building or \$17,500 per dwelling unit, whichever is greater. The dollar amount specified may be increased each year beginning in 2014 by the percentage increase of the Consumer Price Index - All Urban Consumers (CUP-U), All Items, U.S. City Average maintained by the federal Bureau of Labor Statistics.

Chapter 33, Site Work, Demolition and Construction.

Section 3311.5 is added, to read as follows:

3311.5 Trash containers.

It shall be unlawful to bury construction debris on the construction site or on any other public or private property not specifically approved for such use. A suitable trash container and adequate collection service shall be provided for each construction site. For purposes of this requirement, a suitable container is any structure, device, receptacle, designated location or combination thereof which holds construction debris on the construction site in a central location long enough for it to be removed from the site by means of whatever collection service the contractor chooses to use or may be required to use pursuant to other applicable laws before such debris is: (1) washed or blown off-site, (2) contaminates subsurface elements, (3) becomes volatile or malodorous, (4) makes an attractive nuisance, or (5) otherwise becomes a threat to the public health, safety and welfare.

Chapter 34, Existing Buildings.

Section 3401.1, relating to scope, is modified to read as follows:

3401.1 Scope. Provisions of this chapter and of division 4 of this article shall govern the application of this code to existing buildings. In interpreting this code, the building official may be guided by the Nationally Applicable Recommended Rehabilitation Provisions, published in 1997 by the U.S. Department of Housing and Urban Development.

Exception: Buildings and structures located within the High Velocity Hurricane Zone shall comply with the provisions of sections 3401.5, 3401.8, and 3401.2.2.1.

Section 3401.2.2.1, relating to change of occupancy, is deleted, and replaced with a new section 3401.2.2.1, to read as follows:

3401.2.2.1 If the occupancy classification or any occupancy subclassifications of any existing building or structure is changed to a more hazardous occupancy, the building, electrical, gas,

mechanical, and plumbing systems shall be made to conform to the intent of the technical codes as required by the building official.

Section 3401.5, relating to special historic buildings, is deleted, and replaced with a new section 3401.5, to read as follows:

3401.5 Special historic buildings.

3401.5.1 The provisions of the technical codes relating to the construction, alteration, repair, enlargement, restoration, relocation or moving of buildings or structures shall not be mandatory for an existing building or structure identified and classified by the federal, state, county, or town government as a historic structure, or as a contributing structure in a historic district, when such building or structure is judged by the building official to be safe and in the public interest of health, safety, and welfare regarding any proposed construction, alteration, repair, enlargement, restoration, relocation or moving.

3401.5.2 If it is proposed that a historic building that is undergoing repair, renovation, alternation, reconstruction, or change of occupancy not comply literally with certain technical standards of this code, the building official may require the building to be investigated and evaluated by a registered design professional. Such evaluation shall identify each required feature of the building not in technical compliance and shall demonstrate how the intent of these provisions is to be complied with in providing an equivalent level of safety.

Sec. 6-112. - Wind-borne debris region and basic wind speed map.

The entire incorporated area of the Town of Fort Myers Beach lies within the wind-borne debris region and the 430 160 mph basic wind speed zone as established by section 1606.1.6 and figure 1606 of the Florida Building Code.

Sec. 6-113. - Compliance with outdoor lighting standards.

All building permits must comply with the outdoor lighting standards in §§ 34-1831—34-1860 of this code.

Sec. 6-114. - Compliance with NPDES erosion control standards.

Stormwater runoff from construction sites must be managed in compliance with §§ 10-606—10-607 of this land development code.

DIVISION 4. - EXISTING BUILDINGS CODE

Sec. 6-121. - Purpose.

The purpose of this code is to encourage the continued use or reuse of existing buildings. This code is designed to supplement the other codes adopted in this article. In interpreting this code, the building official may be guided by the Nationally Applicable Recommended Rehabilitation Provisions, published in 1997 by the U.S. Department of Housing and Urban Development.

Sec. 6-122. - Adoption; amendments.

The following chapters and sections of the 1997 Standard Existing Buildings Code, as published by the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama, 35213-1206, are hereby adopted by reference and made a part of this article, with the exceptions set forth as follows:

Chapter 1, Administration.

Section 101.7.1, relating to a change of occupancy, is deleted, and replaced with a new section 101.7.1 to read as follows:

If the occupancy classification or any occupancy subclassifications of any existing building is changed to a more hazardous occupancy, the building shall be made to conform to the intent of the Florida Building Code for new construction as required by the building official.

Section 105, relating to the board of adjustment and appeals, is deleted, and replaced by the procedures set forth for the delegation of authority to Lee County's construction board of adjustment and appeals found in division 2 of this chapter and article.

Chapter 2, Definitions and Abbreviations.

Chapter 3, Historic Structures, is hereby amended to read as follows:

The provisions of this code relating to the construction, alteration, repair, enlargement, restoration, relocation or moving of buildings or structures shall not be mandatory for an existing building or structure identified and classified by the federal, state, county, or town government as a historic structure, or as a contributing structure in a historic district, when such building or structure is judged by the building official to be safe and in the public interest of health, safety, and welfare regarding any proposed construction, alteration, repair, enlargement, restoration, relocation or moving.

If it is proposed that a historic building that is undergoing repair, renovation, alternation, reconstruction, or change of occupancy not comply literally with certain technical standards, the building official may require the building to be investigated and evaluated by a registered design professional. Such evaluation shall identify each required feature of the building not in technical compliance and shall demonstrate how the intent of these provisions is to be complied with in providing an equivalent level of safety.

Chapter 4, Means of Egress.

Chapter 5, Fire Protection.

Chapter 6, Light, Ventilation and Sanitation.

Chapter 7, Building Services.

Chapter 8, Maintenance.

Appendix A, Rehabilitation Guidelines.

DIVISION 5. - CONTRACTOR LICENSING

Sec. 6-231. - Contractor licenses required.

Lee County authorizes the issuance of contractor licenses, as authorized by F.S. ch. 489 and Lee County Ordinance No. 96-20, granting the privilege of engaging in the contracting business within the jurisdiction of Lee County. The Town of Fort Myers Beach desires to restrict those engaging in the contracting business to those holding the same categories of licensure as required by Lee County:

- (1) State-certified contractors holding an active state certificate of competency;
- (2) State-registered contractors holding an active state registration and Lee County certificate of competency. A Lee County certificate of competency alone is not sufficient if state statute requires that the contractor also hold a state certificate or registration;
- (3) Locally licensed contractors holding an active Lee County certificate of competency; or

- (4) Restricted specialty contractors holding an active Lee County restricted certificate of competency.

Sec. 6-232. - Contractors required to be state-certified.

In accordance with F.S. ch. 489, ~~the following types of~~ contractors must hold a valid state certification in order to contract in the Town of Fort Myers Beach:

- ~~(1) General contractor;~~
- ~~(2) Building contractor;~~
- ~~(3) Residential contractor;~~
- ~~(4) Class A air conditioning contractor;~~
- ~~(5) Class B air conditioning contractor;~~
- ~~(6) Commercial pool/spa contractor;~~
- ~~(7) Residential pool/spa contractor;~~
- ~~(8) Swimming pool servicing contractor;~~
- ~~(9) Sheet metal contractor;~~
- ~~(10) Mechanical contractor;~~
- ~~(11) Plumbing contractor;~~
- ~~(12) Residential solar water heating contractor;~~
- ~~(13) Underground utilities and excavation contractor;~~
- ~~(14) Asbestos abatement contractor;~~
- ~~(15) Roofing contractor;~~
- ~~(16) Pollutant storage system contractor.~~

Sec. 6-233. - Contractor categories licensed by Lee County.

(a) The Town of Fort Myers Beach accepts Lee County certificates of competency in the following specialty categories:

- ~~(1) Alarm system contractor I;~~
- ~~(2) Alarm system contractor II;~~
- ~~(3) Aluminum specialty structures contractor;~~
- (4 1) Aluminum (without concrete) contractor;
- (5 2) Aluminum (nonstructural) contractor;
- ~~(6) Asphalt sealing and coating contractor;~~
- ~~(7) Awning contractor;~~
- (8 3) Cabinet and millwork contractor;
- (9 4) Carpentry contractor;
- (10 5) Concrete coatings contractor;
- (11 6) Concrete forming and placing contractor;
- (12 7) Concrete placing and finishing (flatwork) contractor;
- ~~(13) Court (outdoor) contractor;~~
- (14 8) Demolition contractor;

- ~~(15) — Dredging contractor;~~
- ~~(16) — Drywall contractor;~~
- ~~(17 9) Excavation contractor;~~
- ~~(18 10) Fence erection contractor;~~
- ~~(19 11) Finish carpentry contractor;~~
- ~~(20 12) Garage door contractor;~~
- ~~(21 13) Glass and glazing contractor;~~
- ~~(22) — Guniting contractor;~~
- ~~(23) — Gutter and downspout contractor;~~
- ~~(14)~~
- ~~(24) — Insulation (building) contractor;~~
- ~~(25 15) Insulation (all types) contractor;~~
- ~~(26 16) Irrigation sprinkler contractor;~~
- ~~(27) — Journeyman air conditioning;~~
- ~~(28 17) Journeyman electrician;~~
- ~~(29) — Journeyman mechanical;~~
- ~~(30 18) Journeyman plumber;~~
- ~~(31) — Marbling contractor;~~
- ~~(32) — Marine contractor;~~
- ~~(33 19) Masonry contractor;~~
- ~~(34) Master electrical contractor;~~
- ~~(35 20) Painting contractor;~~
- ~~(36 21) Paver block contractor;~~
- ~~(37 22) Paving contractor;~~
- ~~(38) — Pile driving contractor;~~
- ~~(39 23) Plastering/stucco contractor;~~
- ~~(40) — Reinforcing steel contractor;~~
- ~~(41) — River rock contractor;~~
- ~~(42) — Sandblasting contractor;~~
- ~~(43 24) Sign contractor - limited;~~
- ~~(44 25) Sign contractor - restricted;~~
- ~~(45) — Structural steel erection contractor;~~
- ~~(46) — Terrazzo contractor;~~
- ~~(47 26) Tile and marble contractor.~~

~~(b) — The Town of Fort Myers Beach also accepts certain older Lee County certificates of competency that the county has determined to be vested with respect to the scope of work allowed under the certificate category. These certificates may be in the following categories:~~

- ~~(1) — Air conditioning contractor — Class A;~~

- (2) — ~~Air conditioning contractor — Class B;~~
- (3) — ~~Air conditioning contractor — Class C;~~
- (4) — ~~Alteration and repair (nonstructural) contractor;~~
- (5) — ~~Building contractor;~~
- (6) — ~~Cement, concrete and masonry contractor;~~
- (7) — ~~Cement finishing contractor;~~
- (8) — ~~Demolition contractor;~~
- (9) — ~~Dredging and landfilling contractor;~~
- (10) — ~~Exposed aggregate contractor;~~
- (11) — ~~Flooring contractor;~~
- (12) — ~~General contractor;~~
- (13) — ~~Glazing and window installation contractor;~~
- (14) — ~~Mechanical contractor;~~
- (15) — ~~Mobile home alteration and repair (including aluminum work) contractor;~~
- (16) — ~~Paint and roof painting contractor;~~
- (17) — ~~Paving and sealing contractor;~~
- (18) — ~~Plastering, lathing, stucco, and drywall contractor;~~
- (19) — ~~Plumbing contractor;~~
- (20) — ~~Pool contractor — Class A;~~
- (21) — ~~Pool contractor — Class C;~~
- (22) — ~~Remodeling contractor;~~
- (23) — ~~Residential contractor;~~
- (24) — ~~Roofing contractor;~~
- (25) — ~~Roof painting contractor;~~
- (26) — ~~Roof spraying contractor;~~
- (27) — ~~Seawall and dock contractor;~~
- (28) — ~~Sign contractor — electrical;~~
- (29) — ~~Sign contractor — non-electrical;~~
- (30) — ~~Solar water heating contractor;~~
- (31) — ~~Tile contractor;~~
- (32) — ~~Tile, terrazo, river rock, and marble contractor;~~
- (33) — ~~Waterproofing contractor;~~
- (34) — ~~Underground utility contractor.~~

Sec. 6-234. - Delegation of authority to the Lee County Construction Licensing Board.

- (a) The Town of Fort Myers Beach hereby delegates to Lee County and the Lee County Construction Licensing Board the authority to make decisions regarding:
 - (1) The categories of certificates of competency that Lee County may require or issue;

- (2) The requirements for obtaining and retaining Lee County certificates of competency;
 - (3) The issuance, revocation, and cancellation of Lee County certificates of competency;
 - (4) Disciplinary actions concerning activities within the town by holders of a Lee County certificate of competency or by state-certified or registered contractors; and
 - (5) Any other matter within the authority of the Lee County Construction Licensing Board.
- (b) The policies, procedures and safeguards applicable to the Lee County Construction Licensing Board according to Lee County Ordinance No. 96-20, are hereby adopted by the Town of Fort Myers Beach for all actions of the board regarding violations alleged to have occurred within the town.
 - (c) The town attorney will provide legal advice to the Lee County Construction Licensing Board when warranted.

Sec. 6-235. - Owner-builder exemption.

- (a) Owners of property may act as their own contractor and provide direct on-site supervision themselves of all work not performed by licensed contractors when building or improving:
 - (1) One-family or two-family residences on the owner's property for the occupancy or use of the owners and not offered for sale or lease; and
 - (2) Commercial buildings on the owner's property at a cost not to exceed \$25,000.00 for the occupancy or use of the owners and not offered for sale or lease.
- (b) If, within one year of completion, an owner-builder sells, leases, or offers for sale or lease any building constructed or improved under an owner-builder exemption, the town can presume the construction or improvement was undertaken for the purposes of sale or lease.
- (c) This section does not exempt any person the owner-builder employs, or has a contract with, to act in the capacity of a contractor. The owner cannot delegate the owner's responsibility to directly supervise all work to any other person unless that person is duly licensed in accordance with this ~~ordinance~~ code and the work performed is within the scope of that contractor's license.
- (d) To qualify for exemption under this section, an owner cannot be a corporation, partnership or trust and must personally appear and sign the building permit application. The owner must also execute a disclosure statement prepared by the building official acknowledging compliance with all applicable regulations.

Sec. 6-236. - Other exemptions.

The licensing provisions of this article do not apply to:

- (1) Any employee of a duly licensed contractor who is acting within the scope of the employer's license or with the employer's knowledge and permission. However, if the employer is not licensed to perform the type of services the employee is contracting to perform, then the employee is not exempt if the employee:
 - a. Holds himself or his employer out to be licensed or qualified by a licensee to perform services outside the scope of the employer's license;
 - b. Leads the consumer to believe that the employee has an ownership or management interest in the company; or
 - c. Performs any of the acts which constitute contracting for services outside the scope of the employer's license.

The intent of this subsection is to place equal responsibility on the unlicensed business and its employees for the protection of the consumers in contracting transactions.

- (2) An authorized employee of the United States, the state, the county, the town, or any political subdivision of the state, if the employee does not hold himself out for hire or otherwise engage in contracting except in accordance with his employment.
- (3) Contractors and employees working on bridges, roads, streets, highways, or railroads, including services incidental thereto, that are under the responsible charge of a professional engineer, duly licensed general contractor, the county, or the state.
- (4) A registered professional engineer or architect acting within the scope of his practice or any person exempted by the law regulating engineers and architects, including a person doing design work as specified in F.S. § 481.229(1)(b). However, an engineer or architect cannot act as a contractor unless properly licensed in accordance with this article.
- (5) An architect or landscape architect licensed under F.S. ch. 481 or a professional engineer licensed under F.S. ch. 471 who offers or renders design-build services. However, a state-certified general contractor must perform the construction services under the design-build contract.

~~Sec. 6-237. – Penalties.~~

~~Penalties for violations of this article shall be as authorized by Lee County through its Ordinance No. 96-20, as may be amended from time to time.~~

Division 2 – Accessory Uses, Buildings, and Structures

Sec. 34-1180. – Garages

- (a) Garage Door sizes shall be limited to one or two-car doors.
- (b) No more than three consecutive stalls (three singles or one single and one double) shall be grouped together. Additional doors require a minimum 8 feet wide architectural element, feature, or access, to break up the façade between door groupings.

Secs. 34-11801—34-1200. - Reserved.

1. **Requested Motion:**

Meeting Date: March 15, 2021

Second Reading and Final Public Hearing: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA ADOPTING AMENDMENTS TO THE TOWN OF FORT MYERS BEACH COMPREHENSIVE PLAN UTILITIES ELEMENT TO UPDATE DATA AND ANALYSIS AND THE GOALS, OBJECTIVES, AND POLICIES RELATED TO WATER SUPPLY PLANNING REQUIREMENTS OF CHAPTER 163, FLORIDA STATUTES; PROVIDING FOR SEVERABILITY; SCRIVENER'S ERRORS; CONFLICTS OF LAW AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

State Law requires periodic updates to local governments water supply plan and Comprehensive Plan

What the action accomplishes:

Provides compliance with State Law for water supply planning

2. **Agenda:**

PUBLIC HEARINGS

3. **Requirement/Purpose:**

Ordinance

4. **Submitter of Information:**

5. **Background:**

Florida Statute 373.709 and 163.3177(6)(c)3 require local water supply and work plan be updated within 18 months after the water management districts governing board updates its regional water supply plan. The plan shall consider a 10-year planning period. The included document is an update to the Town of Fort Myers Beach Comprehensive Plan Utilities Element. The amendment updates data and analysis, along with Goals, Objectives, and Policies.

The Department of Economic Opportunity (DEO) has reviewed the proposed amendment to the Comprehensive Plan. DEO has not objected to any items within the proposed amendment. Several other agencies, including Lee County, have also reviewed the amendment with no objection.

Attachments:

1. 20-18, Adoption of Comprehensive Plan Utilities Element Amendments
2. 20-18, Exhibit A Utilities Element Amendments

Financial Impact:

See attachment

6. **Alternative Action**

7. **Management Recommendations:**

Approve the proposed amendments to the Utilities Element

8. **Recommended Approval:**

Jason Green, Community Development Services
Jason Green, Community Development Services

Created/Initiated - 3/8/2021
Approved - 3/8/2021

John R Herin Jr, Town Attorney
Amy Baker, Town Clerk
Roger Hernstadt, Town Manager

Approved - 3/11/2021
Approved - 3/11/2021
Final Approval - 3/11/2021

ORDINANCE NO. 20-18

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA ADOPTING AMENDMENTS TO THE TOWN OF FORT MYERS BEACH COMPREHENSIVE PLAN UTILITIES ELEMENT TO UPDATE DATA AND ANALYSIS AND THE GOALS, OBJECTIVES, AND POLICIES RELATED TO WATER SUPPLY PLANNING REQUIREMENTS OF CHAPTER 163, FLORIDA STATUTES; PROVIDING FOR SEVERABILITY; SCRIVENER'S ERRORS; CONFLICTS OF LAW AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

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

WHEREAS, the Town Council desires to update the Town's Comprehensive Plan Utilities Element to remain in compliance with water supply planning requirements outlined in State law; and

WHEREAS, on December 1st, 2020 the Local Planning Agency, after giving consideration to the staff recommendation, public testimony, and consistency with the Comprehensive Plan, recommended approval of the proposed amendment to the Town Council and transmittal to the Department of Economic Opportunity; and

WHEREAS, on December 7th, 2020 the Town Council held a first reading of the proposed Ordinance and directed staff to transmit the proposed amendments to the Department of Economic Opportunity for an Expedited State Review; and.

WHEREAS, on March 15th, 2021 the Town Council held a second reading of the proposed Ordinance; and.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:¹

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

^{1/} Additions to existing text are shown by underline, changes to existing text on second reading are shown by double underline, and deletions are shown as ~~strikethrough~~.

Section 2. The Town of Fort Myers Beach Comprehensive Plan Utilities Element is hereby amended to update Data and Analysis and Goals, Objectives, and Policies as described in Exhibit A, attached hereto and incorporated herein by reference.

Section 3. The Town Council does not intend that the provisions of this ordinance be made a part of the Fort Myers Beach Code of Ordinances; regardless, typographical errors that do not affect intent may be corrected with notice to and authorization of the Town Manager without further process.

Section 4. Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive shall apply.

Section 5. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason, declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision will not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared.

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

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

Raymond P. Murphy, Mayor	_____
Rexann Hosafros, Vice Mayor	_____
Dan Allers, Council Member	_____
Jim Atterholt, Council Member	_____
Bill Veach, Council Member	_____

ADOPTED this 15th day of March, 2021 by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

Raymond P. Murphy, 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:**

John R. Herin, Jr., Town Attorney

This Ordinance was filed in the Office of the Town Clerk on this __ day of _____, 2021.

UTILITIES ELEMENT

INTRODUCTION

The Town of Fort Myers Beach is a retail provider of drinking water but does not provide other direct utility services. Three major utility services are provided by others:

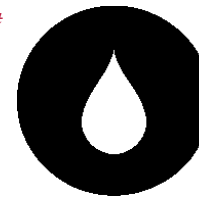
- **Bulk water** is provided by Lee County Utilities, a branch of Lee County government;
- **Sewer service** is provided directly to town residents and businesses by Lee County Utilities; and
- **Solid waste**, with pickup by investor-owned companies operating under a franchise from the Lee County government. Lee County also handles the ultimate disposal of trash from its various contracted trash haulers.

This comprehensive plan examines each of these services and assesses future expansion needs to accommodate growth. This plan also establishes “minimum levels of service” that must be met at all times in order for growth to continue.

Even though some of these services are actually provided by others, the **†Town** must ensure that proper provisions are being made for continued high-quality service into the future. The **†Town** may also wish to play a greater role in utilities in the future, for example by directly franchising its trash hauler rather than being included in one of Lee County’s larger contracts. Other alternatives for the **†Town** are discussed in this element.

PURPOSE OF THIS ELEMENT

The Utilities Element analyzes the availability of public facilities to meet the existing and future needs of the **†Town**. This analysis of potable water, sanitary sewer, and solid waste disposal service is mandated by Florida’s growth management legislation. [Chapter 163.3177 Florida Statutes](#)~~Rule 9J-5.001 of the Florida Administrative Code~~ requires that water, sewer, and solid waste services be provided in accordance with future land use projections, and it identifies a basic framework for inventories of existing infrastructure and services. It also provides the basis for the goals, objectives, and policies to be adopted in this comprehensive plan.



If proper water, sewer, and solid waste facilities are not available, the timing and location of development can be affected, as occurred during sewer moratoriums at Fort Myers Beach in the 1980s. Planning for these services is an integral part of any comprehensive plan.

WATER SUPPLY

Florida Cities Water Company, a private company, provided potable (drinking) water to the Town of Fort Myers Beach and surrounding areas until 2001, when the company was acquired by Lee County Utilities, a branch of Lee County government. Lee County then resold the water distribution system on Estero Island to the Town of Fort Myers Beach.

Ord 20-18, Exhibit A

UTILITIES ELEMENT

~~AS AMENDED BY ORDINANCE 09-03 [2008-11-12 TEXT]~~

PAGE 8 - 1 / ~~as amended 11-25-2009~~

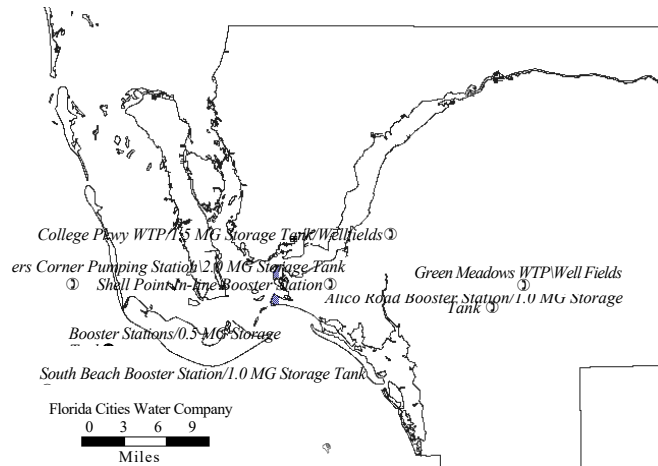


Figure 1. Former Florida Cities' south franchise boundaries & location of facilities

Figure 1 identifies the former Florida Cities' South Fort Myers certificated potable water supply area, which included the Town of Fort Myers Beach and nearby portions of mainland Lee County.

Lee County Utilities in 2001 acquired Florida Cities' two water treatment plants in the South Fort Myers area, which had supplied the following data about their operation. The Green Meadows Water Treatment Plant and College Parkway Treatment Plant, and their accompanying well fields, served this area. These plants had permitted and plant design capacities of 9,000,000 gallons per day (Green Meadows) and 1,500,000 gallons per day (College Parkway). These plants served approximately 16,000 water customers and an estimated population of about 56,000 (at an average of 3½ persons per connection). Land uses served are primarily residential and some commercial. Florida Cities

estimated that 3,000 of these customers and 10,500 of the population were located within the ~~T~~Town's limits. (The number of customers is less than the total number of dwelling units because a majority of dwellings within the ~~T~~Town are multi-family units, which share a water meter and are considered as "one customer.")

Florida Cities had a number of other facilities that served this area. These include:

- South Beach booster station and 1,000,000-gallon ground storage tank;
- North Beach booster station and 500,000-gallon ground storage tank;
- Marina in-line booster station;
- Miners Corner pumping station and 2,000,000-gallon ground storage tank; and
- Alico Road booster station and 1,000,000-gallon ground storage tank.

These facilities are also delineated on Figure 1. Figure 2 displays the potable water lines within the Town of Fort Myers Beach, indicating that potable water service is available throughout the ~~T~~Town.

The average annual daily water demand within the South Fort Myers area averaged 5,757,000 gallons per day in 1997. The peak monthly demand was 7,306,000 gallons per day in 1997; the peak daily demand was 7,781,000 gallons on March 23, 1997.

~~Florida Cities did not have a meter at Matanzas Pass that measured total water consumption in the Town of Fort Myers Beach. In place of this data, a "proportional capacity" can be calculated to estimate the percentage of actual water consumption and of water treatment capacity used by the town, relative to the entire service area on the mainland. This capacity~~

is based on the peak number of customers within each location, compared to the peak month's average daily water demand and the total design capacity of the treatment plant. These figures are shown in Table 8-1. (Proportional capacity figures can be somewhat misleading since demand may be greater in one location one day and less on another day.)

The "level of service" *currently being provided* can be estimated using various methods. Residential levels of service are expressed here in "gallons per person per day." This calculation uses the peak month's average daily demand, which is then divided by the estimated peak population for the entire service area, yielding a figure of about 130 gallons per person per day, as shown in Table 8-2. (Note that this calculation does not apportion water consumption to commercial or industrial uses.) This computation is based on the entire service area rather than just the town because the actual peak population of the town greatly exceeds the population estimates used by Florida Cities.

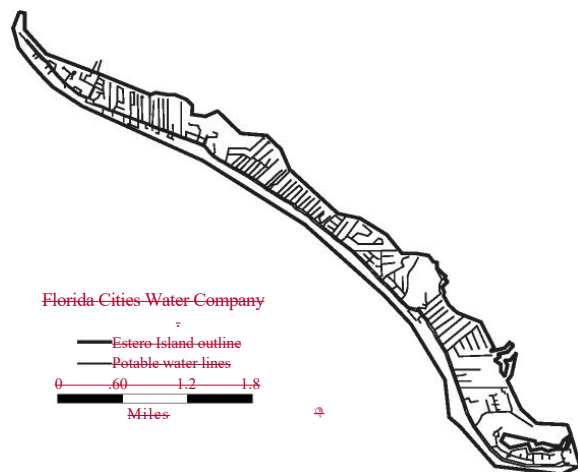


Figure 2. Potable water lines on Estero Island

Table 8-1 — Proportionate Capacity of Potable Water Treatment Facilities, 1995/96

	<i>Town of Fort Myers Beach</i>	<i>Remainder of Lee County certificated area</i>
<i>Customers/</i>		
<i>Water Consumption</i>		
Approximate number of customers	3,000	13,000
Estimated peak population served	10,500	45,500
Estimated share of consumption using peak month water demand (gpd)	1,369,875	5,936,125
Estimated share of total plant design capacity (gpd)	1,968,750	8,531,250

Source: Population and total gpd figures from Florida Cities Water Company

**Table 8-2
Current Levels of Service for Potable Water**

<i>Peak Month Average Daily Water Demand (gpd):</i>	<i>Estimated Peak Population Served:</i>	<i>Gallons Per Person Per Day:</i>
7,306,000	56,000	130.46

Existing and Projected Water Facility Needs

Florida Cities used fixed gallon-per-day rates when designing its facilities. Single-family dwelling units are assumed to use up to 300 gallons per day, which constitutes one equivalent residential connection (ERC), and 240 gallons per day for multifamily units. Those standards have also been established in the Lee County Comprehensive Plan which has jurisdiction until the Town's own plan is adopted. Lee County also established minimum standards for mobile homes and recreational vehicles at 187.5 and 150 gallons per day respectively. The state has established a



Figure 2, Potable water lines on Estero Island

minimum water pressure standard of 20 pounds per square inch. An average pressure of 55 to 60 pound per square inch is maintained throughout the Fort Myers Beach distribution system.

For comprehensive planning purposes, the Town of Fort Myers Beach need not adopt these same standards. However, it would be best to use a standard based on dwelling units rather than people, since new housing is approved one dwelling unit at a time. By further defining this standard on an “ERC” basis, it can also be applied to new commercial development, which at Fort Myers Beach usually does not depend primarily on island residents for its customers. A simple and uniform standard would be 260 gallons per ERC (based on 130 gallons per person per day, times 2 people per typical unit). Since no further mobile home or recreational vehicle developments are expected, separate standards are not needed for them.

The 1990 U.S. Census reported 7,420 dwelling units within the town’s limits in April of that year. An additional 472 units were later constructed for a 1996 total of 7,710. As noted in the Future Land Use Element, housing units ~~are~~ were forecasted to increase to 8,738 at buildout before the year 2020, but was reached in 2018. ~~An additional 175 dwelling units built after 2008 are forecasted to require an additional 45,500 gallons per day of potable water. Table 8-3 summarizes these forecasts. Since buildout has been reached additional demands for water are negligible to nonexistent. In 2016 Fort Myers Beach issued a Rate Study Report that forecasted Customers and Demand through 2026. Table 8.1 summarizes the study’s report with the projected number of accounts and water usage that Fort Myers Beach has and will have through the year 2026.~~ These additional demands are a minute portion (0.1%) of the supply increases being planned by Lee County Utilities by 2030 (source: *Lee County’s Water Supply Facilities Work Plan*, as updated in July 2008/January 2016).

**Table 8-3 — Forecasted Water Demand
for the Town of Fort Myers Beach**

<i>Year</i>	<i>Permanent Peak-Season Population</i>	<i>Population</i>	<i>Total Number of Dwelling Units</i>	<i>Total Daily Water Demand (at 260g/DU)</i>	<i>Forecasted Number of New Dwelling Units after 2008</i>	<i>Additional Forecasted Water Demand after 2008</i>
1996	6,039	15,680	7,710	2,004,600	—	—
2003	6,792	17,635	8,157	2,120,820	—	—
2008	7,100	18,435	8,527	2,217,020	—	—
2013	7,240	18,800	8,696	2,260,960	140	36,400
2018	7,275	18,890	8,738	2,271,880	175	45,500
2023	7,275	18,890	8,738	2,271,880	175	45,500

Source: See Future Land Use Element and Evaluation/Appraisal Report (2007) for details on forecasts

Table 8.1 Forecasted Water Demand for the Town of Fort Myers Beach

<u>Year</u>	<u>Accounts*</u>	<u>Meter Equivalents</u>	<u>Units</u>	<u>Total Water Demand (MGD)</u>	<u>Additional Daily Forecasted Water Demand after 2018 (MGD)</u>	<u>Mo. Use per Unit (MG)</u>
2015	3,200	3,901	9,467	1.343	-	4.31
2016	3,224	3,925	9,491	1.348	-	4.32
2017	3,248	3,949	9,515	1.352	-	4.32
2018	3,273	3,974	9,540	1.356	-	4.32
2019	3,298	3,999	9,565	1.360	0.004	4.32
2020	3,323	4,024	9,590	1.364	0.008	4.33
2021	3,348	4,049	9,615	1.368	0.012	4.33
2022	3,374	4,075	9,641	1.372	0.016	4.33
2023	3,400	4,101	9,667	1.376	0.020	4.33
2024	3,426	4,127	9,693	1.380	0.025	4.33
2025	3,452	4,153	9,719	1.384	0.029	4.33
2026	3,479	4,180	9,746	1.389	0.033	4.33
2027	3,506	4,207	9,773	1.394	0.038	4.33
2028	3,533	4,234	9,800	1.399	0.043	4.33
2029	3,560	4,261	9,827	1.404	0.048	4.33

**The Town of Fort Myers Beach has reached build out with a permanent population of 7,275 and a peak seasonal population of 25,000. Minimal population growth is expected. Population growth is presented in the form of water use accounts, increasing by less than 30 accounts each year.*

Source: See Fort Myers Beach Rate Study Report 2016 for details on forecasts.

Commented [HM1]: New Forecast Table

Ord 20-18, Exhibit A

| UTILITIES ELEMENT

~~AS AMENDED BY ORDINANCE 09-03 (2008-11-12-TEXT)~~

~~PAGE 8-4 / as amended 11-25-2009~~

Bulk Water Agreement with Lee County

In August 2001, the Town of Fort Myers Beach entered into a binding contract with Lee County concerning the source of potable water that would be supplied to customers within ~~town~~ Town boundaries.

The county agreed to be fully responsible for providing a bulk supply of water to the ~~town~~Town, which the ~~town~~Town would then resell to its retail customers. The county confirmed that its water production and treatment facilities met all state and federal standards (and would meet all future standards), and that the county has and would continue to have the ability to provide sufficient water to the ~~town~~Town for the duration of the agreement (a period of 25 years).

The ~~town~~Town agreed not to purchase water from any other source, not to resell this bulk water to any other wholesale customer, and not to construct its own water production and/or treatment facilities.

This contract did not quantify future water demand within the ~~town~~Town, inasmuch as the ~~town~~Town was nearing buildout and little additional demand was anticipated. Continued planning by Lee County Utilities merely assumes that water customers within the ~~town~~Town will require water at the same rates and with the same seasonal patterns as other nearby county water customers. This same approach is reflected in Lee County's ~~July 2008~~January 2016 "Water Supply Facilities Work Plan," which is being incorporated into this plan by Policy 8-A-4.

Traditional and Alternative Water Supply Sources

The South Florida Water Management District updated its Lower West Coast Water Supply Plan in ~~July 2006~~December 2017. The focus of this update was the development of "alternative" water sources, such as wells drilled into deeper aquifers, desalination, re-use of wastewater for irrigation, water conservation measures, and "aquifer storage and recovery" (ASR) where excess water during the rainy season is stored underground for later recovery during the dry season.

Lee County Utilities is committed to developing alternative water sources, including:

- ~~Constructing a Reclaimed Water ASR system in West Lee County to provide seasonal storage of reclaimed water produced at the Fort Myers Beach WWTP and/or the Fiesta Village WWTP. Tapping the Lower Hawthorne aquifer at four wellfields.~~
- ~~Improve reuse systems to enhance delivery and increase utilization. Expanding ASR wells from the two current wellfields to two additional wellfields, and expanding its use further in the future to include reclaimed water.~~
- Upgrade the reuse main from Fiesta Village WWTP to Fort Myers Beach Reuse System

Essentially all future water supply development by Lee County Utilities will use alternative water supply sources, although traditional sources such as shallow wells will continue in use and will be spread out onto larger wellfields to reduce adverse impacts on wetlands.

Work Plan for Constructing New Water Supply Facilities

In July 2008January 2016, a *Water Supply Facilities Work Plan* was published jointly by Lee County Utilities and Lee County Planning. This plan was first mandated state law in 2002 to coordinate water supply planning between local, regional, and state agencies. The objectives were to:

- Identify population and water demands for a planning period from 2007-2017 to 2030 with focus on the planning period from 2007-2017 to 2017-2027.
- Identify existing and planned potable and reclaimed water facilities that will be utilized to meet the projected demand to 2017-2027.
- Identify sources of raw water required to meet the projected demand.
- Identify planned potable water supply and reclaimed water projects required to meet projected demands and specify when they must be developed and how they will be funded.

- Demonstrate that the proposed water supply development projects are feasible with respect to facility capacity and consumptive use permitting.
- Describe Lee County Utilities' efforts in developing alternative water supplies.

Table 6-5 of the *Lee Plan 2019 Codification* (last updated in May 2019) is a document used to supplement the *Water Supply Facilities Work Plan*. This table *Water Supply Facilities Work Plan* (last updated in July 2008) presents a ten-year expansion program for Lee County Utilities (see Policy 8-A-4). Existing and proposed uses of traditional and alternative water supply sources are detailed there in conformance with SFWMD's ~~2005-2006~~2017 Lower West Coast Water Supply Plan Update (approved on July 12, 2006December 2017).

Lee County ~~has will~~ adopted Table 6-5 into its Comprehensive Plan potable water sub-element exactly as reprinted below. At present none of these improvements are needed to meet the potable water level of service at Fort Myers Beach; if any are needed during any upcoming five-year period, they will need to be included in the five-year schedule of capital improvements (Table 11-7) in the Capital Improvements Element.

TABLE 6
CAPITAL IMPROVEMENT PROJECTS
10 YEAR WATER SUPPLY DEVELOPMENT PROJECTS

CIP PROJECT #	LCU PROJECT NAME/ LWCWSP Project Name	DESCRIPTION	PROJECT STATUS	TOTAL PROJECT COST	ESTIMATED COMPLETION DATE	FUNDING SOURCE
7097	Corkscrew WTP Wellfield- Aliso Road / Corkscrew Lower Hawthorne Wells	Design and construct a 5.0 mgd wellfield capacity and raw water transmission system	The total wellfield expansion project is 30% complete and expected to be completed by November 2008. The alternative water supply portion of this project is 70% complete and expected to be complete in June 2009.	\$15,896,910.00	November 2008	Grant/Enterprise Fund
7187	Green Meadows WTP Plant Expansion / Green Meadows Lower Hawthorne Wells	Expand Green Meadows WTP capacity, construct additional wells and transmission lines to support plant expansion	Completed an Expansion Process and Regulatory Evaluation. Currently constructing two test/production wells in the Lower Hawthorne aquifer	\$37,000,000.00	2014	Grant / Debt Finance / Enterprise Fund
7602	North Lee County R.O. Plant Wellfield Expansion / Not included in the LWCWSP	Well installation of 2 Lower Hawthorne wells to reduce upconing and premature water quality decline	Surveying for well sites and wellfield design expected to be underway by May 2008. Expected completion date is December 2008.	\$1,650,000.00	December 08	Grant/Enterprise Fund
7028	North Lee County WTP Expansion to 10 MGD / North Lee County Lower Hawthorne Wellfield and Plant Expansion	Expand the treatment capacity of the existing R.O. plant from 5.0 MGD to 10.0 MGD. Includes construction of the well field expansion	Surveying for well sites and wellfield design expected to be underway by May 2008.	\$16,250,000.00	2010	Grant/Enterprise Fund
7156	Pinewoods WTP DRW & Wellfield Expansion / Pinewoods WTP Expansion Phase II	Construct a deep injection well for disposal of brine and construct at least 4 Lower Hawthorne wells to provide raw water for R.O. plant	Project substantially complete	\$15,924,800.00	January 2007	Grant/Enterprise Fund
7110	ASR Wells @ No. Reservoir & Oiga WTP	Complete construction of 30 MGD storage additional ASR wells	Project on hold due to Arsenic issues	\$2,435,552.00	Unknown	Grant/Enterprise Fund
7188	Green Meadows WTP Raw Water Line Improvements	Upsize/Replace raw watermain to increase wellfield efficiency	scheduled for construction in 2008	\$2,300,000.00	December 2008	Enterprise Fund

ALTERNATIVE WATER RESOURCE PROJECTS

CIP PROJECT #	LCU PROJECT NAME/ LWCWSP Project Name	DESCRIPTION	PROJECT STATUS	TOTAL PROJECT COST	ESTIMATED COMPLETION DATE	FUNDING SOURCE
7280	Three Oaks WWTP Expansion / Three Oaks Reclaimed Water Transmission System	Expand the Three Oaks WWTP to 6.0 MGD	Reuse pumpstation portion of this CIP project for AWS Project, Project substantially complete	\$27,452,896.00	January 2007	Grant/Enterprise Fund
7279	Three Oaks Parkway Widespread Sewer / Three Oaks Playway Reclaimed Water Transmission System	Relocate and Upgrade Existing water, sewer and reuse lines along Three Oaks Playway	Reuse Pipeline portion of this CIP for AWS Project, Project substantially complete	\$6,939,250.00	January 2007	Grant/Enterprise Fund
7287	FMB WWTP Elevated Reuse Storage Tank / FMB Reclaimed Elevated Storage Tank	Construct an elevated reuse storage tank in the Fort Myers Beach WWTP Reuse system	A low cost interim alternative has delayed the need for this project, now scheduled for 2011	\$4,000,000.00	2011	Grant/Enterprise Fund
7284	Reclaimed Water ASR / Health Park Reclaimed Water ASR Phase I and Phase II	Pilot and construction of a Reclaimed Water ASR for Wastewater Treatment Facilities	Issues related to Arsenic and ASR have delayed this project to 2011	\$600,000.00	2011	Grant/Enterprise Fund
Future	Festa Village WWTP Reuse ASR and reject Storage	Study, design, and construct reuse ASR Well and convert existing GST to reject tank	scheduled for 2011	\$1,500,000.00	2012	Grant/Enterprise Fund
7292	FGCU/Micromar Lakes Reuse Extension / FGCU/Micromar Lakes Reclaimed Water Main Improvements	Construct 900 L.F. of 12" reuse main from 3 Oaks WWTP to FGCU	design underway	\$126,000.00	2009	Grant/Enterprise Fund
7217	Pinelake WTP Reuse System Improvements	Install reuse lines to serve to serve FMB reuse service area	Reuse lines will be constructed as need arises	\$1,307,503.00	2008-2011	Enterprise Fund
7240	Pinelake Island WWTP Reuse System	Expand effluent transmission system to provide irrigation for future customers	Reuse lines will be constructed as need arises	\$1,082,806.00	2008	Enterprise Fund
7305	Three Oaks Reuse Transmission Lines	Upsize/expand 3 Oaks reuse transmission lines to handle increased flows to various sites	Reuse lines will be constructed as need arises	\$780,000.00	2008	Enterprise Fund
7111	Automated Flushing Devices	Install automated flushing devices on existing dead-end water mains	on-going	\$160,865.00	2008-2010	Enterprise Fund

TABLE 5
10 Year Water Supply Development Projects
APPROVED LEE COUNTY CIP FY 18/19

WATER SUPPLY DEVELOPMENT PROJECTS					
CIP #	Lee County Project Name / LWCWSP Project Name	Description	Project Status	Total CIP Budget	Estimated Completion Date
207187	Green Meadows WTP Expansion / Green Meadows Water Treatment Facility RO Expansion	Expansion of the Green Meadows WTP from 9.0 MGD to 14.0 MGD and Expansion of the Green Meadows Wellfield Utilizing Lower Hawthorn Wells	Under Construction	\$89,380,335	2019
200633	North Lee County WTP Expansion to 15 MGD	Expand the existing North Lee County Treatment Plant from 10 MGD to 15 MGD treatment capacity. The expansion will utilize a reverse osmosis treatment system.	Planning	\$36,572,000	2024
207619	North Lee County Wellfield Expansion to 15 MGD	Design, permitting, land/easement acquisition and construction of six additional Lower Hawthorn Wells to provide the necessary raw water source for the North Lee County Water Treatment Plant expansion to 15 MGD	Under Construction	\$14,477,763	2023
ALTERNATIVE WATER SUPPLY PROJECTS					
207284	Reclaimed Water ASR / West ASR Wells for Reclaimed Water Storage	Construct a Reclaimed Water ASR system in West Lee County to provide seasonal storage of reclaimed water produced at the Fort Myers Beach WWTP and / or the Fiesta Village WWTP	Design & Permitting	\$6,524,723	2025
207455	Reuse System & Site Improvements	Improvements to reuse system to enhance delivery and increase utilization	Planning	\$6,269,563	2023
200616	Fiesta Village Reuse Main Upgrade	Upgrade the reuse main from Fiesta Village WWTP to Fort Myers Beach Reuse System	Under Construction	\$5,586,000	2020

Water Conservation

With an ever-increasing population and a limited potable water supply, water conservation programs become increasingly important. Citizens of Fort Myer Beach must do their part to conserve this resource. The South Florida Water Management District developed a water conservation program in 1990 which identified six measures specifically for urban areas. These measures identified in the District Water Management Plan (April 1995) include:

- limiting lawn irrigation to the hours between 5:00 P.M. and 9:00 P.M.;
- requiring the adoption of xeriscape landscape ordinances;
- requiring the installation of ultra-low-volume plumbing fixtures in all new construction;
- requiring the adoption of conservation-oriented rate structure by utilities;
- requiring the implementation of leak detection programs by utilities with unaccounted water losses greater than 10%; and
- requiring implementation of water conservation public education programs.

Active water conservation activities as of 2008-2016 are summarized here (also see Policy 8-A-5):

- *Permanent Irrigation Ordinance:* Lee County has imposed an ordinance restricting landscape irrigation to the hours of 5:00 PM to 9:00 AM two days per week (Ordinance No. 05-10). This ordinance is more restrictive than rules of the South Florida Water Management District.
- *Rain Sensors Required:* The Land Development Code requires rain sensors on new irrigation systems (§ 10-154(7)m).
- *~~Xeriscape-Florida Friendly Landscaping~~ Requirements:* The Land Development Code requires ~~xeriscape-Florida friendly~~ principles for all required landscaping (§ 10-421(b)). Xeriscape principles conserve water

through drought-tolerant landscaping, the use of appropriate plant material, mulching, and the reduction of turf areas.

- *Leak Detection Program:* Lee County Utilities has an unaccounted-for water and leak detection program. The latest available data indicate that “unaccounted for” water losses are only 6.22% (calendar year 2006)-less than 1% per month (2018 calendar year)
- *Water Conservation Education:* Lee County TV airs daily information on water conservation, addressing many ways that water customers can conserve. The Lee County Utilities web site contains several pages devoted to water conservation (start at www.lee-county.com/utilities/). The annual Consumer Confidence Report directs customers to the web site for conservation information. Water conservation posters and pamphlets are placed in schools, libraries, and county offices. About 20 water conservation presentations are made to third-grade students each year, and 4-5 water conservation presentations are made to civic organization throughout Lee County.
- *Ultra-Low Volume Plumbing in New Construction Ordinance:* Table 901.1.1 titled, “Maximum Allowable Water Usage for Plumbing Fixtures” establishes maximum flow rates for plumbing fixtures.
- *Water Conservation Based Rate Structure:* Town of Fort Myers Beach has a conservation-based water rate structure, which includes an increasing rate with increasing use, as a means of reducing demand.
- *Meter Replacement Program:* Town of Fort Myers Beach has replaced all water meters in its water distribution system with remote read meters (AMI).

As the Town of Fort Myers Beach develops and maintains its public facilities, water conservation measures such as these should be followed, both to reduce consumption and to lessen costs for water supply. ~~The town should take the lead by example (for instance by installing ultra-low volume plumbing fixtures in new government facilities) and also by adopting~~

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~~ordinances requiring sound water conservation practices. The town should consider implementing a strong “conservation rate structure” where large water users pay a higher rate per gallon~~

~~than is charged to frugal users. This approach could discourage excessive lawn irrigation while maintaining low rates for frugal users.~~

UTILITIES ELEMENT

~~*AS AMENDED BY ORDINANCE 09-03 (2008-11/12-TEXT)*~~

~~*PAGE 8 – 7 / as amended 11-25-2009*~~

SEWER SERVICE

Lee County Utilities, a branch of Lee County government, provides sewer (wastewater) service to the Town of Fort Myers Beach. One of its service areas, known as the Fort Myers Beach/Iona-McGregor Service Area, includes Estero Island, San Carlos Island, and the Iona-McGregor district. This service is known as “sanitary sewer service” to distinguish it from “storm sewers” that collect excess rainwater.

Wastewater collected within the service area is transferred to the Fort Myers Beach Wastewater Treatment Plant where it is treated. A portion of the resulting effluent (after thorough treatment) is redistributed for irrigation purposes. Sewer bills are based on water usage, with charges billed by Florida Cities and then remitted to Lee County Utilities.

Figure 3 shows the boundaries of the Fort Myers Beach/Iona-McGregor sewer service area and the location of the wastewater treatment plant. Figure 4 shows the sanitary sewer lines within

the Town of Fort Myers Beach.

The original design capacity of the wastewater treatment plant in 1978 was 2,700,000 gallons per day. In 1989 it was expanded to its current design and permitted capacity of 6,000,000 gallons per day. As of September 1995, the plant served 7,015 residential and commercial customers. Land uses served are primarily residential (6,519 customers) with some commercial (496 customers).

The permanent and peak season populations within its service area are estimated to be 26,138 and 39,207 persons respectively. Lee County Utilities does not distinguish between the number of customers located within the separate districts of the service area. There are no legal on-site treatment and disposal systems remaining (package treatment plants or septic systems) on Estero Island, and the vast majority if not all structures are connected to the central sewer system in accordance with a mandatory connection policy. Therefore, the number of sanitary sewer customers within the Town of Fort Myers Beach can

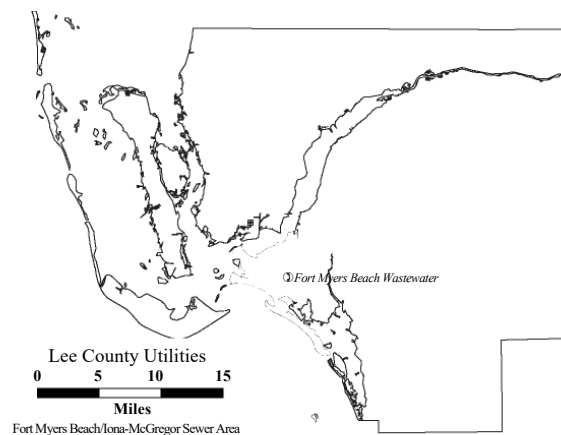


Figure 3, Sewer service area and wastewater plant

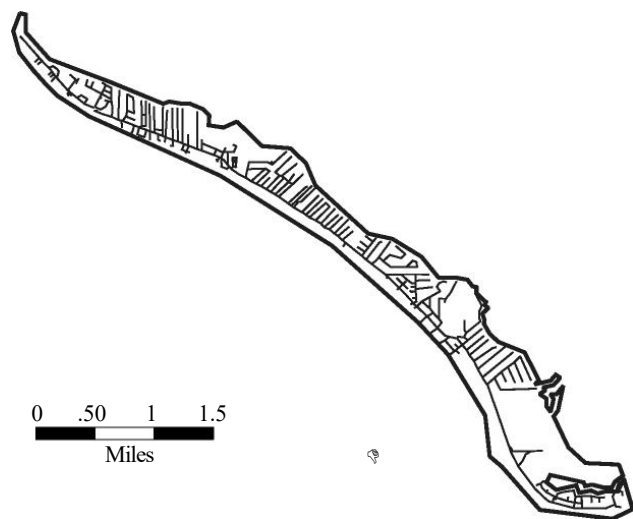


Figure 4, Sanitary sewer lines on Estero Island

be assumed to be the same 3,000 potable water customers reported by Florida Cities.

The average annual daily sewer demand within the South Fort Myers franchise area was 2,840,000 gallons per day between October 1994 and September 1995. The peak monthly demand was 3,436,000 gallons per day in February 1995. This type of data is reported every month by all utilities to the Florida Department of Environmental Protection.

As with potable water supply, a proportional capacity can be calculated to reflect the town's share of the larger service area of Lee County Utilities. This capacity identifies the percentage of actual wastewater flows and of wastewater treatment plant capacity used by the town and by the remainder of the service area. It is based on the peak number of customers within each

location, compared to the peak month's average daily sewer demand and the total capacity of the treatment plant. (As with potable water, the proportional capacity may be somewhat misleading since demand may be greater in one location one day and less on another day.) Table 8-4 reports the proportional capacity available to Fort Myers Beach.

Table 8-4 — Proportionate Capacity of Wastewater Treatment Facilities, 1995/96

<i>Customers/ Sewage Plant Consumption</i>	<i>Town of Fort Myers Beach</i>	<i>Remainder of Lee County service area</i>
Approximate number of customers	3,000	4,015
Estimated peak population served		
	1,469,423	1,966,577
	10,500	28,707
Estimated share of consumption using peak month sewer flows (gpd)		
Estimated share of total plant		
<u>design capacity (gpd)</u>	2,565,930	3,434,070

Source: Population from Florida Cities; gpd figures from Lee County Utilities

In the same manner as for potable water, the level of service *currently being provided* for sanitary sewer is expressed here in "gallons per person per day." This calculation uses the peak month's average daily flow, which is then divided by the estimated peak population for the entire Lee County Utilities sewer service area, yielding a figure of about 87½ gallons per person per day, as shown in Table 8-5. This is substantially less than the 130 gallons of *water* used per day, reflecting water consumption such as lawn irrigation that never flows into the sewer system. (Note that this calculation does not apportion sewer usage to commercial or industrial uses.)

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Table 8-5
Current Levels of Service for Sewer Service

<i>Peak Month Average Daily Sewage Flows (gpd):</i>	<i>Estimated Peak Population Served:</i>	<i>Gallons Per Person Per Day:</i>
3,436,000	39,207	87.64

Existing and Forecasted Sewer Service Needs

Lee County Utilities uses minimum level of service standards which have been established within the Lee County Comprehensive Plan. Those standards state that county sewage treatment plants will have the capacity to treat and dispose of 200 gallons per day per “Equivalent Residential Connection” (ERC) during the peak month. For mobile homes, the minimum level of service standard is 150 gallons per day and for recreational vehicles it is 120 gallons per day.

The town’s new comprehensive plan should use sewer standards comparable to those used for potable water, based in the same manner on observed usage rates adjusted “per ERC” rather than per person. A simple and uniform standard would be 175 gallons per day per ERC (based on $87\frac{1}{2}$ gallons per person per day, times 2 people per typical unit). Since no further mobile home or recreational vehicle developments are expected, separate standards are not needed for them.

Table 8-6 displays the forecasted sanitary sewer demand for the Town of Fort Myers Beach for the two planning periods of this comprehensive plan. Assuming a growth of 411 dwelling units by the end of the first five-year planning timeframe in 2003, additional forecasted sanitary sewerage demand will be approximately 71,925 gallons per day using the 175-gallons-per-day standard. At buildout, an additional 617 dwelling units are forecasted to require an additional 107,975 gallons per day of

sanitary sewerage treatment capacity. These additional demands are only a small portion of the available capacity of the wastewater treatment plant (6,000,000 gallons available minus 3,436,000 gallons used during the busiest period).

Table 8-6 — Forecasted Sanitary Sewer Demand for the Town of Fort Myers Beach

<i>Year</i>	<i>Total Number of Dwelling Units</i>	<i>Forecasted Number of New Dwelling Units</i>	<i>Additional Forecasted Sewer Demand</i>
1996	7,710 (based on actual building permits)		
2003 (first planning timeframe)	8,121	(forecasted)	411
2020 (second planning timeframe)	71,925 gpd		
	8,738 (forecasted)	617	107,975 gpd

Source: See Future Land Use Element for permit forecasts

Performance of Existing Facilities

The Fort Myers Beach Wastewater Treatment Plant has been in operation since 1979. It is in good condition, with sufficient treatment capacity but inadequate effluent disposal capacity during extended rainy periods. The utility provides monthly monitoring reports to the Department of Environmental Protection which regulates the operations of the treatment plant. In the past, the plant has made improper discharges into a drainage ditch that is connected to Estero Bay. The Department of Environmental Protection found that this action violated state requirements, and Lee County was required to halt the illegal discharges. A \$20,000 fine was levied, and Lee County Utilities was forced to increase the effluent disposal capacity during peak periods.

Expansion Needs

Lee County Utilities reported no major problems specific to the ~~town~~-Town regarding facility replacement, expansion, or siting of new facilities. The treatment plant was recently upgraded with the addition of two chlorine contact tanks, which increase disinfection retention time. Private developers are installing a new sewage force main across Big Carlos Pass in order to replace a failing on-site sewer plant at the Grandview Resort and to serve two new buildings being constructed nearby on Black Island.

Lee County is installing a \$2.7 million deep-well injection system to increase disposal capacity during periods when demand for irrigation water is insufficient. Deep-well injection of sewage effluent appears to be environmentally sound but it is very expensive and is a waste of valuable irrigation water; it should be used only to avoid overflows into surface waters.

The Town of Fort Myers Beach contains many of the major users of this sewer service and it lies directly downstream of any effluent discharges into tidal waters. Both of these roles justify the town government's involvement in policy matters concerning sewer service. Although the ~~town~~-Town does not directly franchise or control this service, its long-range goal should be a significant role in its operation.

SOLID WASTE

The Lee County government uses a public-private partnership for collection and disposal of solid wastes throughout the county. All of the household garbage that is collected is taken by private contractors to the Lee County Resource Recovery Plant. There it is burned to reduce its volume and produce electricity; the ash residue is then transported to the county landfill. This ash product takes up 90% less room by volume in the landfill than

the unburned garbage would, greatly extending the life of the landfill.

Solid Waste Collection at Fort Myers Beach

Kimmins Recycling, Inc. is the primary solid waste collector for the Town of Fort Myers Beach. Its franchised service area includes the ~~town~~-Town as well as other locations within Lee County. Figure 5 delineates Kimmins Recycling, Inc.'s entire service area.

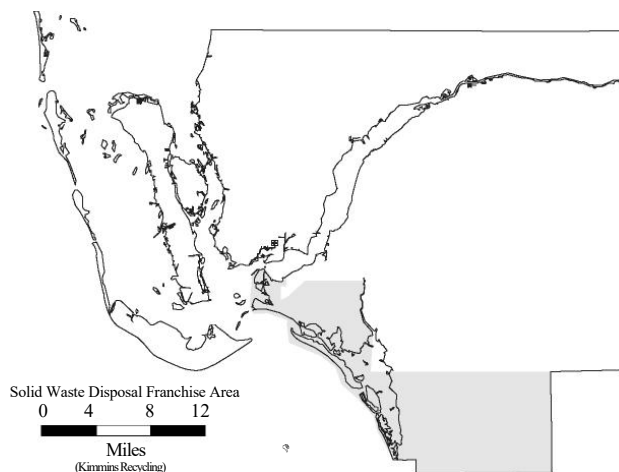


Figure 5, Solid waste disposal franchise area

Prior to the expiration of Lee County's existing contract with Kimmins, the ~~town~~-Town should research the alternative of seeking its own competitive bids from solid waste haulers rather than staying with the county's larger contract. The ~~town~~-Town may be able to obtain service better suited to its own needs, or may be able to reduce costs by eliminating superfluous county contracting requirements or using a smaller hauling company. Conversely, separate contracting might increase costs due to losses of

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economies of scale. Nonetheless, the alternative of separate competitive bids should be explored prior to expiration of the existing contract.

Lee County has adopted a minimum level of service standard for solid waste disposal of 7 pounds per person per day for proper collection, disposal, and management. The Town of Fort Myers Beach can simply adopt that same standard.

Landfill Operations

The Town of Fort Myers Beach does not need to own or operate a landfill because it has full use of Lee County's modern waste disposal facilities. Lee County's landfill is the Gulf Coast Landfill located on SR 82 south of Colonial Blvd., operated by Waste Management, Inc. of Florida. The remaining lifespan of the Gulf Coast Landfill filled to its permitted height of 100 feet above sea level, is estimated to be the years 2000 to 2004, assuming renewal of its DEP operating permit.

The Lee/Hendry Landfill is a Lee County-owned landfill that is currently under construction. Phase I is scheduled for completion in 1997. The estimated ultimate capacity of the Lee/Hendry Landfill to receive solid waste is 40 years, assuming continued renewal of necessary permits and construction of additional phases at the landfill. However, no additional phases are currently planned.

Because of the high water table found throughout southwest Florida, landfills are created by depositing layers of waste and other fill material *on top of* the existing ground surface. In Lee County's case, ash from the Resource Recovery Plant is now the primary waste product which is deposited. The ash accumulates over time and is formed into a mound. Upon reaching a designated height, the landfilled waste receives a final cover of soil and vegetation. Landfill closures are governed by Rule 62701 of the *Florida Administrative Code*.

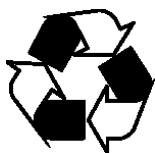
Resource Recovery Plant

The Resource Recovery Plant is also known as a waste-to-energy plant because it produces electricity from burning trash. The plant receives, on average, 900 TPD (330,000 tons per year), and produces up to 39.7 megawatts of power, which is enough electricity for about 25,000 homes (more than all of the homes in Bonita Springs and Lehigh Acres combined). The resource recovery plant is forecasted to reach its current capacity of 1,200 TPD within the next 10 years. Additional disposal capacity is available for approximately 100 TPD of construction debris at the Gulf Coast Landfill.

The resource recovery plant has a forecasted operating lifespan of 30 years, with sufficient capacity to serve all of Lee County until 2027. The projection of plant life is based on engineering design, operational techniques, forecasted population, and average per capita solid waste generation.

The resource recovery plant is equipped with extensive air pollution control systems. It is the first operational plant in the United States to be built with a permanent activated carbon injection system for controlling mercury emissions. The environmental control systems were designed with the new, more stringent *Clean Air Act* standards in mind, and emissions have met the proposed standards without any modification. It was the only waste-to-energy facility in the world to win the *Power Engineering* and *Power Engineering International* magazine's 1995 Project of the Year Award.

Recycling Program



The State of Florida mandated a thirty-percent reduction in municipal solid waste deposited at landfills beginning in 1988. Fifteen percent of this reduction was to come from glass, aluminum, steel cans, plastic, and newspaper recycling. The other fifteen percent would come from the recycling of yard trash, appliances, construction and debris material, and automobile tires. The Town of Fort Myers Beach needs to continue in the successful county-sponsored recycling program.

This voluntary program consists primarily of the residential curbside collection of recyclables utilizing 90-gallon carts and other suitable methods. The ~~town's~~ Town's franchised solid waste hauler, Kimmins Recycling, Inc., provides curbside collection of paper, aluminum, metal, plastic, and glass products. The hauler sorts the recyclables at the curb each week and then transports the recyclables to markets located in Fort Myers. Lee County's current recycling rate is 33%, which exceeds state recycling requirements. The ~~town~~ Town should strongly encourage all of its residents, visitors, and businesses to participate to the greatest extent possible in the existing voluntary recycling program.

Residential wastes are collected using a 1-1-1 system with once-per-week garbage, recycling, and yard waste collection. Commercial collection is mandatory for businesses and institutions. Commercial wastes are primarily generated by retail stores, restaurants, and resorts.

Fees

Residents of the Town of Fort Myers Beach pay for garbage collection, recycling, and disposal through an annual assessment (garbage bill) from the Lee County Tax Collector. Other residents (of condominiums and mobile home parks) and

businesses pay their hauling company directly for collection and part of the disposal expenses.

The fixed operating expenses of the county-owned solid waste disposal facilities are paid to the Lee County Tax Collector as a special assessment (separate bill). The fixed disposal facility expenses are divided equally among all Lee County areas, and each customer pays their share. Figure 6 shows the proportion of the solid waste fee used for different purposes.

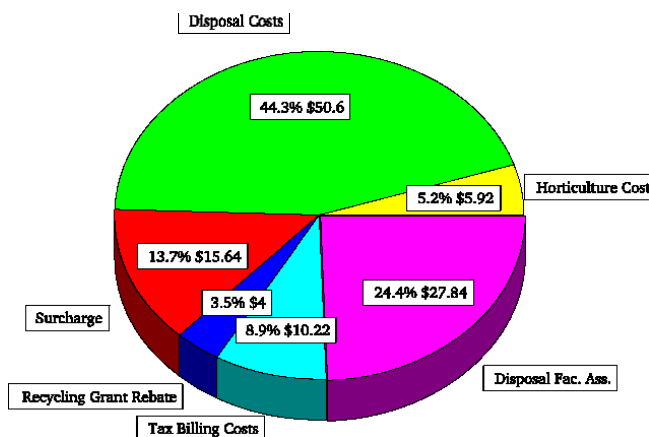


Figure 6. Annual residential solid waste rates FY 1996-97
(source, Lee County Solid Waste Rates: FY 96/97, 1996)

Residents of the ~~town~~ Town received their first solid waste assessment in 1995. Property taxes were reduced when the assessment was added. Table 8-7 shows the unincorporated Lee County solid waste rate summary for fiscal year 1996-97. This table details the fees, recycling rebates, and collection fees for unincorporated

Ord 20-18, Exhibit A

UTILITIES ELEMENT

JANUARY 1, 1999

PAGE 8 – 11

Lee County. Table 8-8 compares household disposal costs from property taxes versus the new special assessment. The assessment costs less than a property tax-based assessment under the assumptions included in this table.

**Table 8-7 — Unincorporated Lee County
Solid Waste Rate Summary FY 96-97**

<i>Solid Waste Rate</i>	<i>FY 96-97</i>	<i>% Increment</i>
Disposal Tipping Fee	\$49.61/Ton \$50.60/HH	4%
Surcharges	\$12.90/Ton \$15.74/HH	(30%)
Recycling Grant Rebate	\$4.00/HH	NA
Residential Collection Fees	\$73.91 - 91.05/HH	3%
Billing Costs (Includes Late Payment Allowance)	\$10.22/HH	110%
Average Residential Bills	\$189.67/HH	(5%)

HH = household

Source: "Lee County Solid Waste Rates, Fiscal Year 96/97," 1996

Hazardous Waste

The Lee County Department of Solid Waste sponsors several "household hazardous waste collection days" throughout the year. Many of these products can be harmful or fatal if swallowed. These are items such as fluorescent tubes, paint, paint thinner, drain cleaners, automobile oil, thermostats, polishes, strippers, car/boat batteries, pool chemicals, pesticides, float switches, or anything marked corrosive, toxic, flammable, or reactive. The ~~town~~-Town may be able to sponsor an occasional pickup day right on Estero Island for these products.

Existing and Forecasted Solid Waste Needs

There are no major problems of development or physical deterioration which will adversely affect solid waste collection within the ~~town~~-Town over the next two planning timeframes. The waste-to-energy facility is new and has very modern equipment, and the new landfill for the safe disposal of the ash has capacity until 2027.

Lee County has implemented a successful recycling program and has plans to expand it. By 1991, the county's 115,000 single-family homes were involved in the recycling program. Currently, all single-family homes as well as all multi-family complexes (apartments, condominiums, and mobile home parks) have the opportunity to participate in the recycling program. However, motels are not included. In 1995, 33% of the county's total waste stream was recycled. In comparison, only 5% was recycled in 1989. The county is working toward a voluntary goal of 50% by the year 2000.

The quantity of solid waste will grow with the ~~town's~~-Town's population. Table 8-9 and Figure 7 display population and solid waste forecasts through the year 2020. It is clear that the ~~town's~~-Town's proportionate capacity of the Resource Recovery Plan and new landfill are minuscule, and that adequate service will be available for both planning timeframes.

These forecasts include solid wastes that will be recovered and recycled. In order to more accurately project the life expectancy of the waste-to-energy facility, recycled wastes must be accounted for because they will not be incinerated. In 1995, the Town of Fort Myers Beach achieved an adjusted recycling rate of 33 percent, based on Lee county's results. The adjusted recycling rate places goals on specified categories of recyclables; therefore, actual recyclable percentages may exceed those ceilings.

**Table 8-8 — Town of Fort Myers Beach
Comparison of Household Disposal Costs
Property Tax vs. MSBU Assessment**

Collection Options	Property Tax FY 95-96	MSBU Assessment FY 97-98
Disposal Facility Assessment Rate/Ton	\$27.29	\$27.29
Total Revenue Required	\$7,835,000	\$8,426,300
Payment Basis	Property Value	Disposal Tonnage
Tonnage Disposed		6,180
Fort Myers Beach Payment Share in %	5%	2%
Fort Myers Beach Total Payments in \$	\$391,750	\$168,652
Unincorporated Lee County Payment Share in %	58%	65%
Unincorporated Lee County Total Payments in \$	\$4,544,300	\$5,447,095
Average Household Tonnage	1.07	1.02
Estimated Tax Millage	0.405	
Fort Myers Beach Household Annual Facilities Payment in \$	\$192.38	\$33.84
Tipping Fee, \$/Ton (Escalated)	\$47.70	\$51.10
Disposal Payment in \$	\$51.04	\$52.12
Total Household Annual Disposal Payment in \$	\$91.54	\$85.96

Source: "Lee County Solid Waste Rates, Fiscal Year 96/97" and
"Finding Sound Solutions -- Solid Waste Rates, FY 97-98"

"MSBU" means Municipal Services Benefit Unit.

**Table 8-9 — Solid Waste Forecasts by Population:
Collection of Total Solid Waste, 1990 — 2020**

Year	Total Dwelling Units	Effective Population	Tons of Solid Waste Per Day	Tons of Solid Waste Per Year
1990	7,420	8,826	30.9	11,279
1996	7,710	9,171	32.1	11,717
2003	8,121	9,660	33.8	12,337
2020	8,738	10,393	36.4	13,286

Sources:

— Dwelling units count for 1990: compilation of STF1A data for Census Tract 601, BG 3-7 plus Census Tract 602, BG 1-6

— Dwelling unit estimates for 1996, 2003, 2020: Future Land Use Element

— Effective population estimated as follows: Peak population = [(total dwelling units x 38.2% dwelling units occupied by permanent residents) + (total dwelling units x 61.8% x .33 allowing for 4 months out of year 100% dwelling units occupied)] x 2.03 persons per household

— Solid waste forecasts: based on standard of 7 pounds per person per day

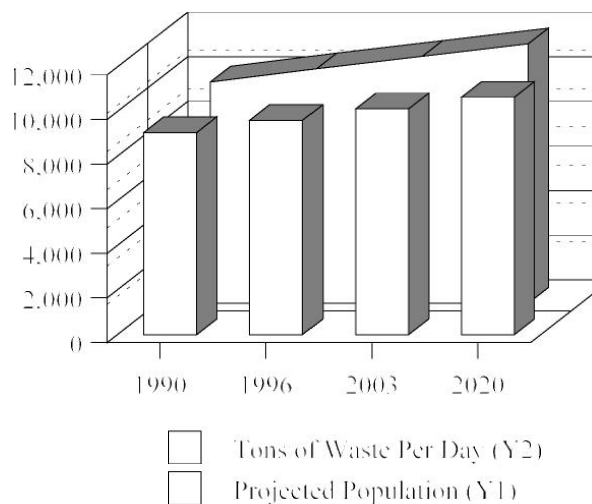


Figure 7, Tons of waste and population growth

Expansion Needs

The preceding analysis shows that Lee County's current system of incineration and landfilling is adequate for a 30- to 40-year period. There are no apparent problems with this system. Fort Myers Beach may wish to separately franchise its trash hauler if, after careful examination, there would be benefits to the town in this course of action.

UTILITIES AND CONCURRENCY

The Town of Fort Myers Beach must ensure that infrastructure and services are provided in order to support new development. This process is implemented through a concurrency management system, a requirement of Florida's growth management legislation. A concurrency management system coordinates the issuance of development orders/permits and certificates of occupancy with continuing measurements of infrastructure and services needed to support development (see the Capital Improvements Element). For potable water, sanitary sewer, and solid waste disposal services, the ~~town~~ Town depends heavily upon reports furnished by the utility providers to measure availability according to the standards contained in this plan.

The inventory and analysis of utility providers indicates that adequate services can be expected to be available to serve new development through build-out of Fort Myers Beach. Even though there appears to be no problem with the provision of these services, the ~~town~~ Town must still monitor continuing reports through its concurrency system to ensure that no unexpected problems are developing.

GOALS - OBJECTIVES - POLICIES

Based on the analysis of utility services in this element, the following goals, objectives, and policies are adopted into the Fort Myers Beach Comprehensive Plan:

GOAL 8: To improve the existing systems that provide safe drinking water, irrigation water, sewer service, and solid waste disposal in order to reduce environmental impacts on land and water while keeping costs as economical as possible.

**OBJECTIVE 8-A RELATIONS WITH UTILITIES —
Increase the town's role in influencing utility providers about service alternatives, facility locations, and conservation of resources.**

POLICY 8-A-1 Mandatory customer connections to water and sewer utilities shall continue to be the policy of the Town of Fort Myers Beach.

POLICY 8-A-2 When considering improvements to utility systems, utility companies should expect involvement by the ~~town~~-Town in evaluating alternatives and seeking the best interests of utility customers and other people and resources affected by those decisions.

POLICY 8-A-3 The ~~town~~-Town shall seek a significant role in policy matters concerning Lee County Utilities' sewer service, based on the ~~town's~~-Town's dual roles as a major user of this service and its location directly downstream of any effluent discharges into tidal waters.

POLICY 8-A-4 The ~~town's~~-Town's potable water supply distribution system is supplied by Lee County Utilities under terms set forth in a bulk water agreement approved in August 2001. Lee County

has a long-term expansion plan to address existing and proposed uses of traditional alternative water supply sources, in accordance with SFWMD's Lowland Water Coast Water Supply Plan Update (2006December 2016). Lee County's long-term expansion plan, the Water Supply Work Plan, was last updated in 2008January 2016 and is incorporated by reference.

POLICY 8-A-5 The ~~town~~-Town shares a common interest with Lee County government in ensuring that potable water supplies will be sufficient to meet future demands. The ~~town~~-Town coordinates with Lee County on an ongoing basis regarding the following matters:

1. Analyzing peak season demand and providing sufficient allocation.
2. Using consistent population projections and level-of-service standards.
3. Conserving water by adopting a conservation rate structure (see Section 6).
4. Implementing a leak detection program and replacing obsolete portions.

OBJECTIVE 8-B LEVELS OF SERVICE — Maintain minimum acceptable levels of service for potable water, sanitary sewer, and solid waste disposal.

POLICY 8-B-1 The minimum acceptable level of service standards for utility services within the Town of Fort Myers Beach shall be:

i. for potable water service:

- (a) available supply, treatment, and delivery capacity of 260 gallons per day per equivalent residential connection (ERC), and delivery of potable water at a minimum pressure of 20 pounds per square inch (psi) at the meter anywhere in the system.
- (b) Prior to issuance of building permits, the town must obtain assurances from Lee County Utilities that an adequate bulk water supply will be available to the town's water distribution system to serve new development at these same rates.

ii. for sanitary sewer service: available capacity to collect, treat, and dispose of wastewater of 175 gallons per day per equivalent residential connection (ERC).

iii. for solid waste disposal service: the ability to collect and manage 7 pounds of municipal solid waste per person per day. An ERC is defined as the total number of meter equivalents using the methodology of the Florida Public Service Commission (and is synonymous with their use of the term "equivalent residential units"). ERCs are used to convert commercial and industrial water or sanitary sewer use into standard units that are based on typical rates of use in dwelling units.

POLICY 8-B-2 The ~~town~~-Town will enforce the service under the concurrency requirement law by requiring one of the following issuance of development permit:

- i. development orders or building permits will be issued subject to the condition that, at the time of the issuance of a certificate of occupancy, the facilities and services must be available and available to serve the development being authorized; or
- ii. at the time development orders or permits are issued, the necessary facilities and services are guaranteed to be available and available to serve the development at the time of issuance of a certificate of occupancy through an enforcement agreement pursuant to Section 163.3220, *Florida Statutes*, through an agreement or development order pursuant to Chapter 38, *Florida Statutes*.

POLICY 8-B-3 The concurrency management standards ~~town's~~-Town's Land Development Code be amended to require the town to maintain water supply capacity, in addition to sewer plant capacity, when determining concurrency with the potable water level of service.

OBJECTIVE 8-C WATER CONSERVATION — Take all reasonable steps to conserve potable water supplies, ~~aiming for a 10% per-capita reduction in water use by 2005.~~

POLICY 8-C-1 The town shall, by resolution, encourage Lee County Utilities to expand its facilities and agreements for recycling treated wastewater for reuse as irrigation water; deep-well injection of surplus wastewater should be limited to emergency use only.

POLICY 8-C-2 The town shall consult with the South Florida Water Management District to obtain suggestions on regulations to conserve water before adopting such regulations.

POLICY 8-C-3 The town will use drought-tolerant vegetation, xeriscape techniques, recycled water, or other available methods for landscaping publicly owned lands, and encourages private landowners to do the same to reduce usage of potable water for irrigation purposes.

POLICY 8-C-4 The town will continue to require, through its building codes, the use of water-saving plumbing fixtures in all new development and redevelopment.

POLICY 8-C-5 The town will support public educational programs that encourage water conservation practices.

POLICY 8-C-6 The town should consider implementing a strong conservation rate program where large water users pay a higher rate per gallon than is charged to frugal users.

OBJECTIVE 8-D SOLID WASTE — Add recycling pickup at commercial enterprises, and maintain an efficient solid waste system that stresses recycling of reusable materials plus safe and efficient disposal of that which cannot be recycled.

POLICY 8-D-1 The town will ensure the routine collection of residential and commercial wastes; special collections of bulky items; separate curbside and bulk collection of recyclable materials; and separate collection of yard wastes and construction debris.

POLICY 8-D-2 The town will continue its participation in Lee County's program of recycling, incineration, and disposal of solid wastes.

POLICY 8-D-3 The town will seek to expand the current program to collect recyclables from motels and other tourist lodgings, and to collect and recycle additional materials.

POLICY 8-D-4 The town will consider an ordinance requiring mandatory recycling of solid waste if voluntary participation does not achieve standards set by state or regional agencies.

POLICY 8-D-5 The town will evaluate methods of improving the cost-effectiveness of solid waste collection, and may consider franchising the collection process independently of Lee County.

POLICY 8-D-6 The town will cooperate with Lee County in implementing programs to decrease the volume of solid waste requiring landfilling (e.g. source separation of material which can be reused, recycled, or disposed of in another manner). The town shall also support and assist in programs to reduce roadside litter and illegal dumping, such as Keep Lee County Beautiful's annual coastal cleanups.

POLICY 8-D-7 The town will cooperate with the Lee County in educating businesses and residents on the proper management of hazardous wastes and the provision of convenient disposal opportunities for the benefit of the town's citizens and visitors. This cooperation shall include distributing written material prepared by Lee County and publicizing their regular schedule of household hazardous waste collection days.

1. Requested Motion:

Meeting Date: March 15, 2021

Authorize the Town Manager to apply for the AARP Community Challenge grant for \$91,000 to be used for Bayside Park's Redevelopment.

Why the action is necessary:

This action allows the Town to apply for a grant opportunity for the the Bayside Park Redevelopment Project if the Town has authorized 100% design and "buildable" plans.

What the action accomplishes:

Authorizes the Town Manager to apply for the grant based on the attached application package by the grant's submittal deadline of **April 14, 2021** by 8:00 p.m.

2. Agenda:

ADMINISTRATIVE AGENDA

3. Requirement/Purpose:

Other

4. Submitter of Information:

Chelsea O'Riley, Public Works
Director

5. Background:

The AARP Community Challenge provides grants to fund quick-action projects that can help communities become more livable for people of all ages. The \$91,000 requested assistance will be used for the Bayside Park redevelopment project. Applications are accepted for projects to improve public spaces, housing, transportation, civic engagement, coronavirus recovery, diversity and inclusion, and more. There is not a matching requirement needed for this grant or maximum request limit. All funded projects must be completed by November 10, 2021.

The grant application is attached.

WHAT MAY AARP FUNDS BE USED FOR?

The application period is open for the 5th annual AARP Community Challenge "quick-action" grant program. Funding is available for local governments and nonprofits that are eager and ready to work on a community-improving project that can be started and completed before year's end. AARP reserves the right to award less funds than requested.

Attachments:

1. AARP Challenge Application

Financial Impact:

This will aid in reducing the total cost to the Town for Bayside Park's redevelopment if approved.

6. Alternative Action

Do not approve.

7. Management Recommendations:

Approve application submittal.

8. Recommended Approval:

Randy Paniagua, Administrative Officer
Chelsea O'Riley, Public Works Director
John R Herin Jr, Town Attorney
Amy Baker, Town Clerk
Roger Hernstadt, Town Manager

Created/Initiated - 3/5/2021
Approved - 3/5/2021
Approved - 3/6/2021
Approved - 3/8/2021
Final Approval - 3/10/2021



**AARP
COMMUNITY
CHALLENGE**

Grants to make communities livable for people of all ages
aarp.org/CommunityChallenge

ATTACHMENT A: APPLICATION

AARP Community Challenge 2021

Grants to make communities more livable for people of all ages

SAMPLE APPLICATION AND BUDGET OUTLINE

All applications must be submitted through the online application at
www.aarp.org/communitychallenge by April 14, 2021, 8:00 p.m. ET

NOTE: All fields must be filled out completely in order for the application to be accepted. Please use "n/a" for "not applicable" where appropriate.

BASIC INFORMATION

1. **Name of Applicant Organization:** Town of Fort Myers Beach

2. **Amount of this grant request:** \$91,000

NOTE: AARP reserves the right to award less funds than requested, so applicants should be prepared to discuss how they would scale down their proposals **if asked**.

3. **Organization Profile.** How has this organization been involved in work to make this community more livable? Please briefly describe and include the issues that the organization has worked on.

We have adopted an ADA Transition Plan and have garnered community involvement through various meetings that discuss wants and needs for this project. We have worked on: signage, visibility, maintenance and recreation efforts.

4. **Organization Address:**

Address: 2525 Estero Blvd.

City: Fort Myers Beach

State: Florida

Zip: 33931

5. Organization tax status. Please check the one that best applies:

- ☐ 501(C)(3) Nonprofit
☐ 501(C)(4) Nonprofit
☐ 501(C)(6) Nonprofit
☒ a municipality
☐ another unit of government
☐ other (Please Describe) _____

6. Organization Website: www.fmbgov.com

(if none, enter n/a)

7. Organization Twitter Handle: @TownofFMB

(if none, enter n/a)

8. Organization Facebook Name: Town of Fort Myers Beach, Florida

(if none, enter n/a)

9. Did your organization apply for an AARP Community Challenge grant in 2017, 2018, 2019 or 2020?

- ☐ Yes – Selected more than once
☐ Yes – Selected once
☐ Yes – Not selected
☒ No – did not apply

10. How did you hear about this grant opportunity?

- ☐ The AARP State Office in my state
☒ The AARP Livable Communities e-newsletter
☐ An organizational newsletter or conference
 - ☐ 880 Cities
 - ☐ American Planning Association or State Association of Planners
 - ☐ American Society for Landscape Architects
 - ☐ America Walks
 - ☐ Congress for New Urbanism
 - ☐ Federal or State Government Agency
 - ☐ Land Trust Alliance
 - ☐ League of American Bicyclists or local bike/ped advocacy organization
 - ☐ LOR Foundation
 - ☐ Metrolab
 - ☐ National League of Cities or State League of Cities/State Municipal League
 - ☐ National or State Association of Counties
 - ☐ National Main Street Center or local Main Street Organization

- ☐ Rails to Trails
- ☐ Smart Growth America
- ☐ Strong Towns
- ☐ Trust for Public Land
- ☐ Other
- ☐ A local event or newsletter
- ☐ Word of mouth in the community
- ☐ Social Media
- ☐ Other: _____

POINT OF CONTACT

11. Organization Contact:

Name: Chelsea O'Riley

Title: Public Works Director

Address: 2525 Estero Blvd., Fort Myers Beach, FL 33931

Phone: (239) 765-0202 ext.1700

Email: Chelsea@fmbgov.com

COMMUNITY DETAILS

12. Name of municipality where project will be physically located/delivered:

Town of Fort Myers Beach

13. Approximate address where this project will be delivered:

NOTE: This information is for AARP's analysis purposes only and will not be used in award information, etc.

Address: Right of way abutting: 1131 First St.

City: Fort Myers Beach State: FL Zip: 33931

14. Approximate population for the city/town/area where this project will be delivered:

NOTE: Please do not enter population ranges. We recommend a quick Internet search of the municipality and population.

7,094 (2019, US Census Bureau)

15. Would you describe this community as:

- ☒ Rural
- ☒ Suburban
- ☒ Urban

PROJECT DETAILS**16. Project Description.** Please provide a description of your project in 2,000 characters or less (including spaces).

Bayside Park has the opportunity of becoming a pillar of community engagement in our Town. The Town Council-approved project will incorporate the Town's ADA Transition Plan. The community voiced their desire to look for upgraded recreation opportunities. Since the project's infancy, the community has voiced the various improvements needed to make the park relevant and suitable for all ages to enjoy outdoor recreation. As population and tourism have increased, the demand for more outdoor recreation reflects what the community needs. The increase in outdoor recreation will allow community members to have increased opportunities that will foster healthier and physically engaged citizens. According to the 2010 US Census, nearly 60 percent of the Town's population is over 65 years old.

The Town incorporated amenities into Bayside Park that will allow for people in this age group to make use of this park. The shovel-ready project will include flattened areas for secure mobility, new lighting for increased visibility and public safety, bike racks, benches, and a water fountain to promote long-term usage by patrons of all ages. A stage will allow for community groups to organize events in this park. The park will include a public pier in the future.

NOTE: This grant may NOT be used for the following activities:

- Partisan, political or election related activities
- Planning activities and assessments and surveys of communities without tangible engagement
- Studies with no follow-up action
- Publication of books or reports
- The acquisition of land and/or buildings or a vehicle purchase
- Solely to sponsor other organizations' events or activities
- Research and development for a nonprofit endeavor
- Research and development for a for-profit endeavor
- The promotion of a for-profit entity and/or its products and services

- 17. Project Short Summary.** In under 250 characters (including spaces), please describe your project and the impact it will have on the community. Think of it as a one or two sentence summary you would include in a press release.

*For example: **This project will turn overgrown vacant lots into community gardens, and install artistic benches and murals at a park frequented by older adults and children.***

The project will redevelop and increase accessibility to a passive park that will be a pillar of engagement for people of all generations and abilities.

- 18. Social Impact Goal.** Which of the following social impact goals *best* describes your project?

- ☒ increasing social connections between residents
- ☒ improving the health and wellness of the community
- ☐ increasing economic activity in the area that will lead to improved economic conditions for residents.
- ☐ increasing ways to safely get around the community
- ☐ creating a range of housing options for people to safely live
- ☒ strengthening connections between government and residents leading to improved community relations
- ☐ improving ways for the community to recover from the coronavirus pandemic
- ☒ making the community more inclusive and meeting the needs of diverse populations

- 19. Project Category.** Please select the category below that best describes your project, along with the primary corresponding sub-category.

Note: We understand there is some crossover between categories and that several might apply to your project. Please select the main category that closest aligns with your initial goal.

- ☒ **Create vibrant public places** in the community through permanent or temporary solutions that improve open spaces, parks and access to other amenities.
 - ☒ Activities to engage people in vibrant public places (e.g., open streets events)
 - ☒ Public space activation (e.g., public plaza improvements, parklets, street trees, alleyway activation, seating and games in public spaces, seating along Main Street corridors, signage in neighborhoods)
 - ☒ Public art installations that make a space more inviting (e.g., murals and sculptures that are connected to a broader plan for the public space)
 - ☒ Park enhancements (e.g., park equipment improvements, new structures, dog parks)
 - ☐ Playgrounds (e.g., intergenerational play spaces)
 - ☒ Community gardens (e.g., building accessible community garden beds)
 - ☒ Accessibility of amenities (e.g., increasing accessibility features of park equipment)
 - ☒ Public safety interventions (e.g., proper lighting, landscaping, block revitalization/maintenance)

- ☐ Other (please only select if your project does not fit into one of the above categories and please describe in detail) _____
-

- ☐ **Deliver a range of transportation and mobility options** through permanent or temporary solutions that increase connectivity, walkability, bikeability and access to public and private transit and safety.
- ☐ Activities to engage people in transportation options/safety (e.g., open streets events)
 - ☐ Roadway/sidewalks/crosswalk improvement and beautification (e.g., markings for crosswalks, traffic calming pop-ups at intersections)
 - ☐ Bikeability (e.g., bike sharing options, temporary bike lanes)
 - ☐ Public or private transit access and safety (e.g., transit shelters, activating and improving transit stops)
 - ☐ Micro-mobility enhancements/management (e.g., parking and training on scooters, e-bikes, etc.)
 - ☐ Expansion and enhancement of existing transportation options (e.g., adding volunteer-led transportation programs, enhanced coordination of existing transportation resources)
 - ☐ Improved wayfinding (e.g., signage and markings)
 - ☐ Trails (e.g., completing and connecting trails, signage)
 - ☐ Accessibility of transportation amenities (e.g., increasing accessibility features of transportation options for people of all abilities, including ADA compliance, etc.)
 - ☐ Other (please only select if your project does not fit into one of the above categories and please describe in detail) _____
-

- ☐ **Support a range of housing options** in the community through permanent or temporary solutions that increase the availability of accessible and affordable choices.
- ☐ Accessory dwelling units and tiny homes
 - ☐ Co-housing programming and resources
 - ☐ Resources about housing options and available services
 - ☐ Innovative or new home maintenance, repair and support services
 - ☐ Lifelong housing and accessibility
 - ☐ Other (please only select if your project does not fit into one of the above categories and please describe in detail) _____
-

- ☐ **Increase civic engagement and demonstrate the tangible value of “Smart Cities”** with innovative and tangible projects that bring residents and local leaders together to address challenges and facilitate a greater sense of inclusion.
- ☐ Developing projects based on residents’ priorities (e.g., participatory budgeting efforts)

- ☐ Bringing resident insight and volunteer power into local government (e.g., citizen academies, local volunteers supporting City Hall efforts)
 - ☐ Engaging residents alongside thought leaders in problem solving (e.g., hackathons)
 - ☐ Tools and programming to capture data and resident feedback
 - ☐ Activities that highlight the use of data to improve decision-making in local government
 - ☐ Other ideas that improve civic engagement in the community (please only select if your project does not fit into one of the above categories and please describe in detail) _____
-

- ☐ **Support local recovery from the coronavirus pandemic** with an emphasis on economic development, improvements to public spaces, and transportation services.
 - ☐ Expanding the availability of outdoor public space and seating for safe gathering and dining (e.g., parklets with additional seating, etc.)
 - ☐ Offering new programs to foster local economic assets (e.g., activating makers' spaces in homes, how-to programs on entrepreneurship, repurposing of existing commercial space to adapt to new needs/modes).
 - ☐ Activating streets for safe exercise and activity (e.g., slow streets programs, etc.)
 - ☐ Piloting innovative community solutions to share in arts and culture while social distancing, e.g. pop-up drive-in-movies or other art/performance events.
 - ☐ Developing innovative techniques to engage people in assessing the pedestrian safety of their communities, and collecting input to shape community response as a part of economic recovery efforts.
-

- ☐ **Ensure a focus on diversity and inclusion** while improving the built and social environment of a community.
 - ☐ Inclusive housing solutions that meet the needs of diverse populations
 - ☐ Inclusive transportation solutions that meet the needs of diverse populations
 - ☐ Inclusive public space improvements that meet the needs of diverse populations
 - ☐ Inclusive civic engagement efforts that meet the needs of diverse populations
 - ☐ Inclusive supports to help family caregivers, allow residents to live independently
 - ☐ Other changes to make a community more inclusive and meet the needs of diverse populations (please only select if your project does not fit into one of the above categories and please describe in detail). _____
-

- ☐ **Other**
 - ☐ Connectivity improvements, including broadband access
 - ☐ Activities that increase access to healthcare services
 - ☐ Activities that support family caregivers

- ☐ Activities to support entrepreneurship and economic development
- ☐ Other (please only select if your project does not fit into one of the above categories and please describe in detail) _____

20. Project Deliverables. Please specify the individual deliverables of your project. Quantify and provide as much detail as you can about any **physical structures (such as benches, lighting, signage, etc.), events, dates, addresses, communications, people reached, volunteers involved, etc.** within 300 characters (including spaces) for each deliverable.

Before you enter your answers, PLEASE READ the examples below and review Attachment D.

For example:

- I. *The Organization will purchase and install structures with LED lighting with custom side panels at (ADDRESS)*
 - a. *Quantity: 3*
- II. *The Organization will purchase and install ADA compliant benches at (ADDRESS)*
 - a. *Quantity: 7*
- III. *The Organization will purchase and install AARP branded signage at (ADDRESS)*
 - a. *Quantity: 15*
- IV. *The Organization will purchase and install raised garden beds*
 - a. *Quantity: 10*
- V. *The Organization will hold event on (DATE) (event examples: workshops, hackathon, trainings)*
 - a. *Quantity: 1*
- VI. *The Organization's goal is to have community members to be trained at workshops*
 - a. *Quantity: 250 goal*
- VII. *The Organization will hold a (kick-off, ribbon cutting, etc.) event on November 1, 2021.*
 - a. *Quantity: 1*
- VIII. *The Organization has a goal of attendees at event*
 - a. *Quantity: 400*
- IX. *The Organization will engage volunteers over the course of the project – including painting benches, installation, and the kick-off event*
 - a. *Quantity: goal of 70*

Deliverable 1: Site Furnishings (Benches, Trash & Recycle Receptacles, Bike Rack, Barrier Free Water Fountain, Tree Grates, Trench Drain Grates, Concrete Seat Wall W/ Stone Cladding)

Quantity: \$73,900

Deliverable 2: Landscape (Coconut Palm, Native Grasses, Rain Garden Substrate, Coconut Fiber Slope Mat, Root Barriers, Whole Shell Mulch 1CF Bags)

Quantity: \$17,100

Deliverable 3: _____

Quantity: _____

Deliverable 4: _____

Quantity: _____

Deliverable 5: _____

Add more deliverables as necessary

21. Project Type:

PLEASE NOTE: Proposals for the project types described below will be prioritized over those that support ongoing programming or events.

- ☒ **Permanent physical** improvements in the community
- ☐ **Temporary demonstrations** that lead to long-term change
- ☐ **New, innovative programming** or services

PROJECT NARRATIVE AND BUDGET

Please complete each section with 2,000 characters or fewer (including spaces).

22. Livable Communities Activities. Please provide a brief summary of the ongoing efforts to make this community more livable for all ages and share how the Community Challenge project will support that effort and have a lasting impact.

Our community seeks to engage people of all ages by actively sponsoring programming that can be used as an opportunity to grow socially, physically and mentally. The Town offers pickleball, senior trips, health events and social events with the aim of making our community more livable for people of all ages. Our residents benefit from year-round access to a recreation center, which includes a reduced price for in-water classes and allows for free usage of the weight room. As part of these efforts, we have transitioned into implementing our ADA Transition Plan to ensure all members are accommodated. The Community Challenge project will support these efforts and have a lasting impact by motivating and spearheading a project that will invigorate the opportunities we have for residents of all ages. The Town plans to coordinate events at Bayside Park that aim to involve our residents aside from daily usage.

23. Community engagement. Please describe how residents and local organizations have been engaged in the area's livable communities' activities to date. How will you engage the community and involve older adults as you execute this grant?

Residents and local organizations drive the engagement in our area's livable communities' activities. The local organizations host community events that seek to promote educational, health and social engagement. Some local organizations have funded educational and technical courses to enhance the community's level of education on disciplines that were requested by the residents. Other organizations have created senior softball leagues that allow older residents to be physically engaged. As a part of this, members of the organization have the option of donating their time to charitable causes. Executing this grant will allow the Town to promote the usage by community groups to host educational and social events. The veteran's tribute will be placed in the park to drive our local veteran community (VFW) to utilize Bayside Park. The Town's park and recreation department's BOSS program (social seniors) will continue to foster the involvement of seniors with programming designed with their consideration.

24. Role of volunteers. Will volunteers play a role in the implementation of the Community Challenge project?

- ☒ Yes
- ☐ No

- a. Do you anticipate volunteers age 50 and older playing a role in the implementation of the Community Challenge project?
- ☒ Yes
- ☐ No
- b. Please describe the role that volunteers (particularly those 50+) will play in implementing the Community Challenge project.

Veterans in our community will volunteer to attend the opening ceremony and assist with the final placement of the tribute.

People in the 50+ demographic have been volunteering in voicing their concerns and needs for this park by being engaged with the Town's committees.

25. Diversity and Inclusion. Regardless of your project category, will your project focus on, impact or benefit a specific multicultural population in the community?

☐ Yes

☒ No

- a. If so, please select the one or two who will be primarily impacted below.

- ☐ African American/Black
- ☐ Hispanic/Latino
- ☐ Asian American Pacific Islander
- ☐ Native American
- ☐ LGBTQ+
- ☐ Other: _____

- b. Please describe how the effort focuses on or impacts this multicultural or diverse population(s).

26. Disparities. Will your project improve or address existing disparities (including racial or economic) in the community?

☒ Yes

☐ No

Please describe: The project will allow accessibility to recreation in the downtown area free of charge.

27. Accessibility. Will your project focus on improving accessibility for people of *all* abilities?

☒ Yes

☐ No

The project will be subject to ADA compliance efforts noted in the Town's ADA Transition Plan.

Please describe: Bayside Park will be ADA compliant and will offer a place for everyone to congregate and engage within the park.

- 28. Matching Funds and In-Kind Support.** Matching funds are not required. However, please detail any matching funds or in-kind support the organization will receive to contribute toward this project.

	Matching Funds (\$)	In-Kind Support
Nonprofit		
Private		
Public		

- 29. Project Budget.** Please specify what expenses will be covered by the grant. Itemize anticipated expenses and income (if any) for this proposal.

	Expense	Additional information
Contracted services costs	\$91,000	
Staff costs, if any		
Materials & supplies, if any		
Travel expenses, if any		
TOTAL REQUESTED		

- 30. How will you use AARP branding?**

The Town will place signage that is approved by AARP. The Town hopes the signage will cause members
to take advantage of all AARP has to offer.

- 31. Other Funding.** AARP might be contacted by other potential funders that could be interested in funding projects that were not funded through the AARP Community Challenge. The potential funders may have additional process steps and funding requirements than those of the AARP Community Challenge. If requested, AARP would like to send your contact information, organization name and a short description of your proposal, including the community where the project would take place ("Project Information"). Please note that these projects will be subject to any potential funder's own terms, conditions and review. Please indicate in your application whether or not you give permission to AARP to share your

Project Information with other potential funders. If you select “yes,” you agree on behalf of yourself and your organization to release AARP and its affiliates and their respective officers, directors, employees, contractors, agents and representatives from all liability associated with sharing the Project Information with potential funders. We will alert you before this Project Information is given to potential funders. **Do you give AARP permission to share this Project Information with other organizations that might be interested in funding your project?**

☒ YES

☐ NO

An opportunity for other possible AARP funding. Please note that by submitting a proposal for the AARP Community Challenge initiative, you and your organization give AARP permission to reach out to you and others at your organization about other possible AARP funding opportunities that your proposal may be eligible for based on the AARP Community Challenge criteria. However, please note that AARP is not obligated in any way to consider your proposal for any additional AARP funding.

NOTIFICATION

When you SUBMIT this application, you will receive a confirmation email within the hour. If you do NOT receive a submission confirmation, you may not have submitted successfully. Please go back and make sure you completed ALL required questions and did not go over the text box character limits.

All applicants will be notified of their funding status by email in June. In order to receive funding, selected applicants must execute and return a binding Memorandum of Understanding and completed financial forms to the AARP National office.

1. Requested Motion:

Meeting Date: March 15, 2021

To select/appoint members to represent the community as "Stakeholders" for a meeting to guide the Lighting Study.

Why the action is necessary:

As required as part of the contract documents for the lighting study, the consultant is required to hold a ZOOM Stakeholder's Meeting.

What the action accomplishes:

Appoints/Selects members of the community to partake in the stakeholders meeting for the lighting study.

2. Agenda:

ADMINISTRATIVE AGENDA

3. Requirement/Purpose:

Other

4. Submitter of Information:

Chelsea O'Riley, Public Works
Director

5. Background:

- Town Staff - Chelsea O'Riley, Chadd Chustz
- County Staff - Rob Phelan or designated representative
- a member of Turtle Time Inc. – Eve Haverfield or designated representative
- 2 members of the public - TBD by Town Council
- a member from the Fort Myers Beach Public Safety Committee – Mike Childs
- a member of the Marine Resource Task Force – Steve Johnson
- Hotelier or Vacation Rental Property Manager - TBD by Town Council
- Fort Myers Beach Chamber Representative - TBD by Town Council
- Fort Myers Beach Fire Department - Chief Love or designated representative
- Lee County Sheriff Office - Sheriff or designated representative

Attachments:

Financial Impact:

ZOOM kick off meeting will cost less than an in-person kick off meeting (\$19,370).

6. Alternative Action

Do not select members and designate to Town Manager.

7. Management Recommendations:

8. Recommended Approval:

Chelsea O'Riley, Public Works Director
Chelsea O'Riley, Public Works Director
John R Herin Jr, Town Attorney
Amy Baker, Town Clerk

Created/Initiated - 3/10/2021
Approved - 3/10/2021
Approved - 3/11/2021
Approved - 3/11/2021



Signs to be placed on existing poles between Crescent Street and Red Coconut (where no bike lane exists)

From: Holly Zasadny <hollyz@kw.com>
Sent: Wednesday, March 10, 2021 11:16:56 PM
To: Ray Murphy <RayMurphy@fmbgov.com>
Cc: Rexann Hosafros <RexannHosafros@fmbgov.com>; Dan Allers <AllersD@fmbgov.com>; Jim Atterholt <AtterholtJ@fmbgov.com>; Bill Veach <VeachB@fmbgov.com>; Tatiana Lopez Gutierrez <tatiana.lopezfl@gmail.com>; Leah McCann <leahm@kw.com>; andy@beachbucketfoundation.org <andy@beachbucketfoundation.org>; Chelsea O'Riley <chelsea@fmbgov.com>
Subject: Beach Bucket Foundation Opportunity

Hello Mayor and Councilmen/woman,

My name is Holly Zasadny and I am a local realtor with Keller Williams Fort Myers. Every year Keller Williams hosts a large-scale volunteer event for our agents and families during the second Thursday of May called Red Day.

Because we care deeply about the community in which we sell homes and because we believe in making a lasting impact, we have decided to partner this year with an organization that is making a huge impact all along the east coast of florida: The Beach Bucket Foundation.

<https://www.beachbucketfoundation.org/>

Because I know that the Clean Water Initiative is an important topic in all of Florida right now, and it's also a conversation on Fort Myers Beach, I thought this could be a really great project to perpetuate that awareness in our community.

The Beach Bucket Foundation sets up "Beach Clean Up Stations" at beach access points with a sign that states something similar to this:

Please keep our beaches and ocean clean.

Grab a bucket to pick up debris while you enjoy your day at the beach.

Please return buckets to this station.

The beach bucket stations are attractively designed out of wood, they can have a trash can or be set up near an existing trash can, they are affordable, and they are scalable. They can hold 4 or 6 buckets per station. Most of these stations are funded with "bucket sponsors." Each bucket is sponsored with a \$250 donation to the beach bucket foundation. The foundation will print a sponsor sticker to attach to the sponsored bucket. While these sponsors help to cover the cost of building and installing these stations, some municipalities have decided to pay for these stations themselves because the price point is so manageable.

The concept is so simple, and has helped to raise awareness for clean water and beach initiatives. The local response on the other coast is overwhelmingly positive! People love it and are responding by using the stations regularly.

Keller Williams is interested in helping to bring this concept to Fort Myers Beach in the following ways:

1. We would like to help make the connections necessary to bring this to fruition.
2. We would like to sponsor several of these stations and also assist with recruiting additional sponsors to install multiple beach bucket stations on Fort Myers Beach access points.
3. We would like to host a beach clean up event on May 13th to launch the new program.

I know the timeline is short, but Andy has confirmed he can produce 5-10 of these stations by that date for Fort Myers Beach. Of course, that's just the beginning and more can be added over time.

We need your help! First, we need the town of Fort Myers Beach to agree to this program and to join us in being the first municipality on the West Coast of Florida to institute beach cleanup stations. Logistically, you would need to determine where they go, approve the design, manage the logistics of trash removal (from the trash cans). I spoke to Chelsea O'Riley and she believes this is something Public Works could get behind, with some details that would need to be ironed out logistically.

I also know that advertising is not allowed on beach property. We can flex this concept to either provide sponsor recognition through PR or online promotions or we can attempt to fundraise without the concept of bucket sponsors... OR if you approve of using the buckets for sponsor advertisement, these buckets may be the outlet that local businesses need to advertise on Fort Myers Beach and also give back to such a critical initiative.

I am copying Andy Abbott, the founder of this organization, to this email. His phone number is 954-806-5404. He is available to answer specific questions about the customizable design of his cleaning stations and the program.

Also, Andy has asked me to provide the contact info for the Director of Parks & Recs for Palm Beach County, Jimmy Davis: 561-966-6630 / jrdavis@pbcgov.org
They would be willing to provide testimony to the success of this program in their county.

I really believe this could be a great partnership and a great program to bring to Fort Myers Beach and I hope to hear from you soon with your decision, and/or with any questions you may have pertaining to this opportunity.

Have a successful, fulfilling, and all-around unforgettable day... unless you have other plans! ;-)

Holly Zasadny, Realtor
Keller Williams Fort Myers & Islands
Direct (239) 810-3802
www.zteamrealtyswfl.com

