



Fort Myers Beach Management & Planning Session

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

Agenda

**Thursday, October 15,
2020**

9:00 AM

ORDER OF BUSINESS

- I. CALL TO ORDER**
- II. PLEDGE OF ALLEGIANCE**
- III. ITEMS FOR DISCUSSION**
 - A. Stormwater Presentation
Stormwater Presentation by Tetra-Tech
 - B. New Year's Eve Fireworks
Initiate New Year's Eve Fireworks planning and permitting.
 - C. Discussion of Ordinance Prohibiting Turtle Sales
Review draft ordinance prohibiting the sale of turtles in the Town
 - D. Criteria for Murals
Criteria for Murals - draft ordinance to LPA for review and recommendations
 - E. Nuisance Abatement Board
Discussion of implementation of the Nuisance Abatement Board
- IV. AGENDA MANAGEMENT**
 - October Agenda Management
- V. 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.

1. **Requested Motion:**

Stormwater Presentation by Tetra-Tech

Meeting Date: October 15, 2020

Why the action is necessary:

What the action accomplishes:

2. **Agenda:**

ITEMS FOR DISCUSSION

3. **Requirement/Purpose:**

5. **Background:**

Attachments:

Financial Impact:

6. **Alternative Action**

7. **Staff Recommendations:**

8. **Recommended Approval:**

Christy Cory, Utilities Director

Date: October 07, 2020

John R Herin Jr, Town Attorney

Date: October 07, 2020

Amy Baker, Deputy Town Clerk

Date: October 07, 2020

Roger Hernstadt, Town
Manager

Date: October 08, 2020

1. **Requested Motion:**

Meeting Date: October 15, 2020

Initiate New Year's Eve Fireworks planning and permitting.

Why the action is necessary:

Due to COVID-19 pandemic staff is seeking Town Council direction on special events that draw large crowds of people.

What the action accomplishes:

2. **Agenda:**

ITEMS FOR DISCUSSION

3. **Requirement/Purpose:**

5. **Background:**

Staff will be seeking Town Council direction about permitting the fireworks on December 31, 2020 in order to have adequate time to obtain all necessary permits in time for the event.

Attachments:

Financial Impact:

6. **Alternative Action**

7. **Staff Recommendations:**

8. **Recommended Approval:**

Alison Giesen, Director of Cultural, Parks & Recreation

Date: October 06, 2020

John R Herin Jr, Town Attorney

Date: October 07, 2020

Amy Baker, Deputy Town Clerk

Date: October 07, 2020

Roger Hernstadt, Town Manager

Date: October 08, 2020

1. **Requested Motion:**

Meeting Date: October 15, 2020

Review draft ordinance prohibiting the sale of turtles in the Town

Why the action is necessary:

The conditions under which pet turtles are "farmed" or "ranched" for the pet trade can be extremely septic. Turtles can carry Salmonella germs in their droppings, even while looking healthy and clean. These germs can easily spread to their bodies, tank water, and habitats. People can get sick after they touch a turtle or anything in their habitats. Further, it is the intent of this article to protect the indigenous flora and fauna of the Town. Non-native turtles can compete with indigenous wild turtles for food and basking sites. In addition, pet turtles that are released can negatively impact indigenous wild turtles by spreading diseases and parasites into the environment.

What the action accomplishes:

The ordinance prohibits the sale of turtles in the Town.

2. **Agenda:**

ITEMS FOR DISCUSSION

3. **Requirement/Purpose:**

Ordinance

5. **Background:**

Concerned naturalist Robert Howell shared concerns with staff and the Marine Resources Task Force (MRTF) about the sale of turtles as pets at a retail location in the Town. Robert Howell noted that he found one turtle in the pool at the Pink Shell and two while he was kayaking. He researched the topic and suggested that stores be prohibited from selling the turtles. The MRTF passed a motion advising Town Council to ban the sale of the turtles in the Town.

The Florida Constitution grants FWC regulatory powers on the sale of wildlife which may preempt the Town from regulating the sale of Yellow Bellied Sliders.

*See FWC jurisdictional email attached

Attachments:

1. FWC Email regarding Class III Permits and Yellow Bellied Slider Sales
2. DRAFT Yellow Bellied Slider Ordinance
3. CDC - Outbreak of Salmonella Infections Linked to Pet Turtles _ October 2019 _ Salmonella
4. The Humane Society - Thinking of getting a pet turtle
5. Yellow-bellied Slider (*Trachemys scripta scripta*) - Species Profile
6. Williams 1999 - The Terrible Turtle Trade

Financial Impact:

Loss of revenue of stores currently selling turtles.

6. **Alternative Action**

Require the shop to display and give educational material with the sale of turtles or do nothing.

7. **Staff Recommendations:**

8. **Recommended Approval:**

Daphnie Bercher, Community Services
Administrator

Date: October 07, 2020

John R Herin Jr, Town Attorney

Date: October 07, 2020

Amy Baker, Deputy Town Clerk

Date: October 07, 2020

Roger Hernstadt, Town Manager

Date: October 08, 2020

Amy Baker

Subject: FW: Urgent FW: Class III Permits and Yellow Bellied Slider Sales

From: Roger Hernstadt

Sent: Wednesday, October 7, 2020 4:01 PM

To: Amy Baker <Amy@fmbgov.com>

Subject: Urgent FW: Class III Permits and Yellow Bellied Slider Sales

From: Herin, John R. <JHerin@foxrothschild.com>

Sent: Wednesday, October 7, 2020 3:53 PM

To: Chadd Chustz <Chadd@fmbgov.com>

Cc: Daphnie Bercher <DaphnieB@fmbgov.com>; Roger Hernstadt <roger@fmbgov.com>

Subject: RE: Class III Permits and Yellow Bellied Slider Sales

Two follow up suggestions:

1. Revise the blue sheet for the draft Ordinance already prepared for next week's M&P meeting to reflect this new information, and stating that staff will be withdrawing the item for Council consideration because of State pre-emption.
2. Make sure this information is disseminated as widely as possible (certainly a press release and on the Town's webpage), and specifically to the gentleman that initially raised the issue, and directing ALL COMPLAINTS TO THE NEAREST FWC ENFORCEMENT OFFICE (highlight phone number and address).

Let's use this as an opportunity to distance ourselves as far as possible from this issue in light of the fact that FWC has stated we are preempted and have no authority or jurisdiction to do anything about it.

John R. Herin, Jr.

Partner

Florida Bar Board Certified in City, County
and Local Government Law

Fox Rothschild LLP

2 South Biscayne Boulevard

One Biscayne Tower, Suite 2750

Miami, FL 33131

(305) 442-6544 – direct

(305) 409-0107 – mobile

(305) 442-6541 – fax

JHerin@foxrothschild.com

www.foxrothschild.com

From: Chadd Chustz <Chadd@fmbgov.com>

Sent: Wednesday, October 7, 2020 3:41 PM

To: Herin, John R. <JHerin@foxrothschild.com>

Cc: Daphnie Bercher <DaphnieB@fmbgov.com>

Subject: [EXT] FW: Class III Permits and Yellow Bellied Slider Sales

GA Mr. John,

FWC called back and advised that the FL Constitution gives FWC sole regulatory powers over the sale of wildlife in the State, and any ordinance that the Town may pass would be pre-empted by those powers.

Please see contact info for FWC OGC referred to below:

Bridget.McDonnell@myfwc.com

850-408-8549

Thank you,

Chadd Chustz
Environmental Project Manager
Town of Fort Myers Beach
chadd@fmbgov.com
(239) 765-0202 Ext. 1312

From: Captive Wildlife [<mailto:cwapps@MyFWC.com>]
Sent: Wednesday, October 7, 2020 3:24 PM
To: Chadd Chustz <Chadd@fmbgov.com>
Subject: RE: Class III Permits and Yellow Bellied Slider Sales

Chadd,

Bridget McDonnell is the attorney for the Agency your attorney will be contacting. He number is 850-408-8549.

Clint

From: Chadd Chustz <Chadd@fmbgov.com>
Sent: Tuesday, October 6, 2020 3:07 PM
To: Captive Wildlife <cwapps@MyFWC.com>
Subject: FW: Class III Permits and Yellow Bellied Slider Sales

[EXTERNAL SENDER] Use Caution opening links or attachments

Good Afternoon,

I had questions regarding regulations for the sale of yellow belly slider turtles. Also, I was unable to look up Class III permits in the permit system.

If you have time, please give me a call on my Town cell – 239-462-8127

Thank you,

Chadd Chustz
Environmental Project Manager
Town of Fort Myers Beach
chadd@fmbgov.com
(239) 765-0202 Ext. 1312

From: Barnhart, Jo [<mailto:Jo.Barnhart@MyFWC.com>]
Sent: Tuesday, October 6, 2020 2:53 PM
To: Chadd Chustz <Chadd@fmbgov.com>; O'Hanlon, Bradley <Bradley.OHanlon@MyFWC.com>
Subject: RE: Class III Permits and Yellow Bellied Slider Sales

Hi Chad,
Please call our Captive Wildlife Division for questions regarding the class III permit at 850-488-6253.

Thanks,

Jo

From: Chadd Chustz <Chadd@fmbgov.com>
Sent: Tuesday, October 6, 2020 2:50 PM
To: O'Hanlon, Bradley <Bradley.OHanlon@MyFWC.com>
Cc: Barnhart, Jo <Jo.Barnhart@MyFWC.com>
Subject: Class III Permits and Yellow Bellied Slider Sales

[EXTERNAL SENDER] Use Caution opening links or attachments

Good Afternoon Bradley,

I had questions regarding regulations for the sale of yellow belly slider turtles. Also, I was unable to look up Class III permits in the permit system.

If you have time, please give me a call on my Town cell – 239-462-8127

Thank you,

Chadd Chustz
Environmental Project Manager
Town of Fort Myers Beach
chadd@fmbgov.com
(239) 765-0202 Ext. 1312

ORDINANCE NO. 20-XX

**AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA
ESTABLISHING A NEW ARTICLE X OF CHAPTER XX OF THE CODE
OF ORDINANCES OF THE TOWN OF FORT MYERS BEACH ENTITLED
“XXX”, 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 Centers for Disease Control (“CDC”) has linked outbreaks of human Salmonella to contact with pet turtles; and

WHEREAS, the Town of Fort Myers Beach, Florida (“Town”) desires to minimize health risks to its residents posed by pet turtles that carry Salmonella; and

WHEREAS, the Nonindigenous Aquatic Species (“NAS”) information resource for the United States Geological Survey (“USGS”) has recorded the presence of nonindigenous turtles in Southwest Florida, including *Trachemys scripta scripta*, commonly known as a yellow bellied slider turtle; and

WHEREAS, the Town recognizes that the introduction of turtles not native to the Town of Fort Myers Beach may have a detrimental effect on the ecology of native flora and fauna, and is 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 native turtle population; and

WHEREAS, on XXX XX, 2020 the Town Council held a first reading of this proposed Ordinance; and

WHEREAS, on XXX XX, 2020 the Town Council held a second reading of this proposed Ordinance.

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

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

Section 2. A new Article **X** of Chapter **XXX** of the Code of Ordinances of the Town of Fort Myers Beach entitled "**XXX**" hereby adopted to read as follows:

CHAPTER **XX – **XXXXXX****
ARTICLE **X – **XXXXX****

Sec. ____ - Article Purpose and Objectives

The purpose of this Article is to discourage the retail sale of turtles. The conditions under which pet turtles are "farmed" or "ranching" for the pet trade can be extremely septic. Turtles can carry Salmonella germs in their droppings, even while looking healthy and clean. These germs can easily spread to their bodies, tank water, and habitats. People can get sick after they touch a turtle or anything in their habitats. Further, it is the intent of this article to protect the indigenous flora and fauna of the Town. Non-native turtles can compete with indigenous wild turtles for food and basking sites. In addition, pet turtles that are released can negatively impact indigenous wild turtles by spreading diseases and parasites into the environment.

Sec. ____ - Applicability

The provision of this Article shall apply to all properties zoned commercial with retail use within the Town.

Sec. ____ - Definitions

Turtle means all animals commonly known as turtles, tortoises, terrapins, and all other animals of the order Testudinata, class Reptillia.

Sec. ____ - Prohibition of the Sale of Turtles

No retail business shall sell, display, offer for sale, deliver, trade, barter, lease, auction, give away, or otherwise transfer or dispose of turtles.

Sec. ____ - 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 per day per violation for initial violations, and \$500 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 4. 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 5. 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 6. 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 7. 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:

Ray Murphy, Mayor	_____
Rexann Hosafros, Vice Mayor	_____
Jim Atterholt, Councilmember	_____
Dan Allers, Councilmember	_____
Bill Veach, Councilmember	_____

ADOPTED this XX day of XXX, 2020 by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

Ray Murphy, Mayor

ATTEST:

Michelle D. Mayher, Town Clerk

APPROVED AS TO FORM:

John R. Herin, Jr., Town Attorney

Salmonella

Outbreak of *Salmonella* Infections Linked to Pet Turtles

Final Update

Related Pages

- [Map of Reported Cases](#)
- [Timeline of Reported Cases](#)
- [Previous Outbreak Investigation Updates](#)
- [Brote de infecciones por *Salmonella* vinculado a tortugas mascota](#)



Investigation Notice

Published on January 9, 2020 at 3:30 PM ET

This outbreak investigation is over. Always wash your hands after touching pet turtles or their environments. Read more about how to stay healthy around turtles.

CDC and public health officials in several states investigated a multistate outbreak of human *Salmonella* Oranienburg infections linked to pet turtles.

Final Outbreak Information



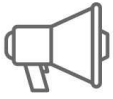
- A total of 26 people infected with the outbreak strain of *Salmonella* Oranienburg were reported from 14 states.
 - A total of 8 hospitalizations were reported. No deaths were reported.
- [Epidemiologic, laboratory, and traceback evidence](#) indicate that contact with pet turtles was the likely source of this outbreak.
 - In interviews, 16 (73%) of 22 ill people reported contact with a turtle.
 - The outbreak strain was identified in samples collected from a pet turtle’s habitat.
- As of January 9, 2020, this outbreak investigation is over.

At A Glance

- [Reported Cases](#): 26
- [States](#): 14
- Hospitalizations: 8
- Deaths: 0



Advice to Pet Owners and Pet Retailers



Turtles can carry *Salmonella* germs in their droppings, even while looking healthy and clean. These germs can easily spread to their bodies, tank water, and habitats. People can get sick after they touch a turtle or anything in their habitats.

People who own or come in contact with turtles should take [steps to stay healthy around their pet](#):

- **Wash your hands.**
 - Always wash hands thoroughly with soap and water right after touching, feeding, or caring for a turtle or cleaning its habitat.
 - Adults should supervise handwashing for young children.
- **Play safely.**
 - Don't kiss or snuggle turtles, because this can spread *Salmonella* germs to your face and mouth and make you sick.
 - Don't let turtles roam freely in areas where food is prepared or stored, such as kitchens.
- **Clean habitats, toys, and pet supplies outside the house when possible.**
 - Avoid cleaning these items in the kitchen or any other location where food is prepared, served, or stored.
- **Pick the right pet for your family.**
 - Children under 5 years of age, adults aged 65 and older, and people with weakened immune systems are at a greater risk for serious illness. Households with these people should consider a different pet.
- **Educate customers and employees.**
 - Pet stores, breeders, or others that sell or display turtles should provide [educational materials](#).

Symptoms of *Salmonella* Infection



- Most people infected with *Salmonella* develop diarrhea, fever, and stomach cramps 6 hours to 6 days after being exposed to the bacteria.
- The illness usually lasts 4 to 7 days, and most people recover without treatment.
- In some people, the illness may be so severe that the patient needs to be hospitalized. *Salmonella* infection may spread from the intestines to the bloodstream and then to other places in the body.
- Children younger than 5 years, adults 65 years and older, and people with weakened immune systems are more likely to have a severe illness.
- For more information, see [Symptoms of *Salmonella* Infection](#).

Investigation Details

January 9, 2020

CDC and public health officials in several states investigated a multistate outbreak of human *Salmonella* Oranienburg infections linked to contact with pet turtles.

Public health investigators used the [PulseNet](#) system to identify illnesses that were part of this outbreak. PulseNet is the national subtyping network of public health and food regulatory agency laboratories coordinated by CDC. DNA fingerprinting is performed on *Salmonella* bacteria isolated from ill people by using a standardized laboratory and data analysis method called [whole genome sequencing](#) (WGS). CDC PulseNet manages a national database of these sequences that are used to identify possible outbreaks. WGS gives investigators detailed information about the bacteria causing illness. In this investigation, WGS showed that bacteria isolated from ill people were closely related genetically. This means that people in this outbreak were more likely to share a common source of infection.

A total of 26 people infected with the outbreak strain of *Salmonella* Oranienburg were reported from 14 states. A list of the states and the number of cases in each can be found on the [Map of Reported Cases](#) page.

Illnesses started on dates ranging from [May 29, 2019](#), to [October 31, 2019](#). Ill people range in age from less than 1 year to

80 years, with a median age of 25. Seventy-three percent of ill people were female. Of 24 ill people with information available, 8 hospitalizations were reported. No deaths were reported.

WGS analysis did not identify antibiotic resistance in the 23 bacterial isolates available from ill people. Testing of five outbreak isolates using standard [antibiotic susceptibility testing](#) methods by CDC's [National Antimicrobial Resistance Monitoring System \(NARMS\)](#) laboratory confirmed these results.

Investigation of the Outbreak

[Epidemiologic, laboratory, and traceback evidence](#) indicate that contact with pet turtles was the likely source of this outbreak.

In interviews, ill people answered questions about animal contact in the week before they became ill. Of the 22 people interviewed, 16 (73%) reported contact with a pet turtle. Of the 8 people who reported the species of the pet turtle, 7 (88%) reported contact with red-eared sliders. The outbreak strain of *Salmonella* Oranienburg was found in samples collected from an ill person's pet turtle.

Ill people reported buying pet turtles from pet stores or receiving them as a gift. Among the 10 people who remembered where they purchased their turtle, all 10 reported purchasing or having contact with turtles purchased from various Petco stores. CDC has made Petco aware of the investigation and is working with the company to update their educational materials for customers who purchase pet turtles.

Among 11 people who knew the size of the turtle, 9 reported contact with a turtle that was four inches or larger. Previous *Salmonella* [outbreaks](#) have been linked to turtles with a shell length less than four inches. Due to the increased risk of *Salmonella* illness linked with these small turtles, the U.S. Food and Drug Administration banned the [sale and distribution](#) [↗](#) of turtles with shells less than four inches long as pets.

Regardless of where turtles are purchased or their size, turtles can carry *Salmonella* germs that can make people sick. Pet stores should provide information about *Salmonella* to customers and pet owners should always follow [steps to stay healthy around their pet](#).

As of January 9, 2020, this outbreak investigation is over.

[Previous Updates >>](#)

Outbreak By the Numbers



Map of Reported Cases



Timeline of Reported Cases

Key Resources

- [Stay Healthy Around Pet Reptiles](#)
- [Healthy Pets Healthy People](#)
- [The Trouble with Tiny Turtles](#)
- [Information on *Salmonella*](#)

Thinking of getting a pet turtle?

Consider the risks to your health, the earth and the animals

Turtles may seem like low-maintenance pets, but those about to rush out and bring one home should consider that they require years (sometimes decades) of specialized care. Turtles can also transmit disease. Like all wildlife, these reptiles belong in their natural habitats.

Adopt, don't shop

Small animals like turtles are often mistreated and forced into deplorable conditions when they're bred for pet stores to sell — look for a local rescue first when you're considering adopting a hamster, and skip the pet stores.

Turtles carry salmonella

Salmonella isn't just a food-borne illness; turtles and other reptiles carry salmonella bacteria, which can be easily transmitted to people. A small turtle may seem harmless, giving parents a false sense that they're a safe pet for children. But the disease risk is so great that selling small turtles is illegal in the United States. (See below.)

Salmonella usually gives people a few miserable days of fever and diarrhea, but some end up in the hospital with life-threatening complications. According to the [U.S. Centers for Disease Control and Prevention](#) (CDC), children, senior citizens and those who have lowered natural resistance to disease due to pregnancy, cancer,

chemotherapy, organ transplants, diabetes, liver problems or other diseases are most at risk.

Selling small turtles is illegal

Selling small turtles—with shells less than four inches long—was banned in 1975 to prevent the spread of salmonella. The CDC says this ban “likely remains the most effective public health action to [prevent turtle-associated salmonellosis](#).” Some sellers try to skirt the law by using the exceptions allowed for legitimate scientific and educational purposes. But just saying the turtle will be used for education or offering the turtle for free with the sale of a tank does not make it legal. In addition, some states and localities prohibit possession of turtles. Call your local animal shelter or animal control to find out about turtle ownership laws.

Want text alerts with ways to help animals right from your phone? **Text HSUS to 30644** (message & data rates may apply).

The U.S. Food and Drug Administration (FDA) enforces the ban on small turtle sales and has this advice for consumers: Don’t buy small turtles for pets.

Top 10 tips

Sign up to receive our exclusive e-book full of training techniques, problem-solving and important information about caring for your pet.

Get Your Copy

You don't have to touch the turtle to get sick

You don't have to touch the turtle to get sick, because salmonella can live on surfaces. A [2006 study](#) published in the journal *Pediatrics* found that exposure to reptiles was one of the biggest risk factors in determining whether infants get salmonella. Infants aren't likely to handle reptiles. They probably get infected indirectly, such as a parent touching a turtle or cleaning a turtle's tank and then holding a child.

Turtles need a lifetime of specialized care

Turtles are often marketed as low-maintenance pets, but the truth is that they need special care and a lot of room to grow. Turtles will not survive in a small dish with a plastic palm tree. They need the right lighting, temperature and water filtration system. Countless pet turtles die from being kept in inadequate conditions. Turtles shipped by mail and other delivery services often die on the way.

If maintained properly, however, turtles can live for decades and grow to be a foot long. That's a lifetime responsibility that many people are not prepared to meet. If you've done extensive research and are prepared for the commitment and responsibility of a turtle, we suggest you adopt one from a local animal shelter or rescue group, instead of creating more demand for turtles by purchasing one from a pet store. Visit theshelterpetproject.org/shelters to find your local shelter.

Turtles should never be let loose outdoors

If you get a turtle and then decide you can't care for the animal, there are not many options. Rescue groups are inundated with calls to take them. People sometimes turn turtles loose, thinking they are "freeing" them, but it's typically illegal to release turtles outdoors. Turtles let loose might die, and they might carry disease that kills other turtles. If they live, they can out-compete native species for food and habitat, [threatening native biodiversity](#). The red-eared slider turtles common in the pet trade are native to only part of the United States, but are turning up where they are not

native across the country and around the globe. They are now considered among the world's [100 most invasive species](#).

To protect your health, the earth and the animals, please don't get a turtle for a pet!

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Email address

First name

First name

Zip Code

Zip Code

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Mobile Number

●●●-●●●-●●●●

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All Animals magazine



© 2020 The Humane Society of the United States [Privacy Policy & Terms](#)

The Humane Society of the United States is registered as a 501(c)(3) nonprofit organization. Contributions to the HSUS are tax-deductible to the extent permitted by law. The HSUS's tax identification number is 53-0225390.

NAS - Nonindigenous Aquatic Species



Trachemys scripta scripta

(Yellow-bellied Slider)

Reptiles-Turtles

Native Transplant



William Flaxington ©

***Trachemys scripta scripta* (Thunberg in Schoepff, 1792)**

Common name: Yellow-bellied Slider

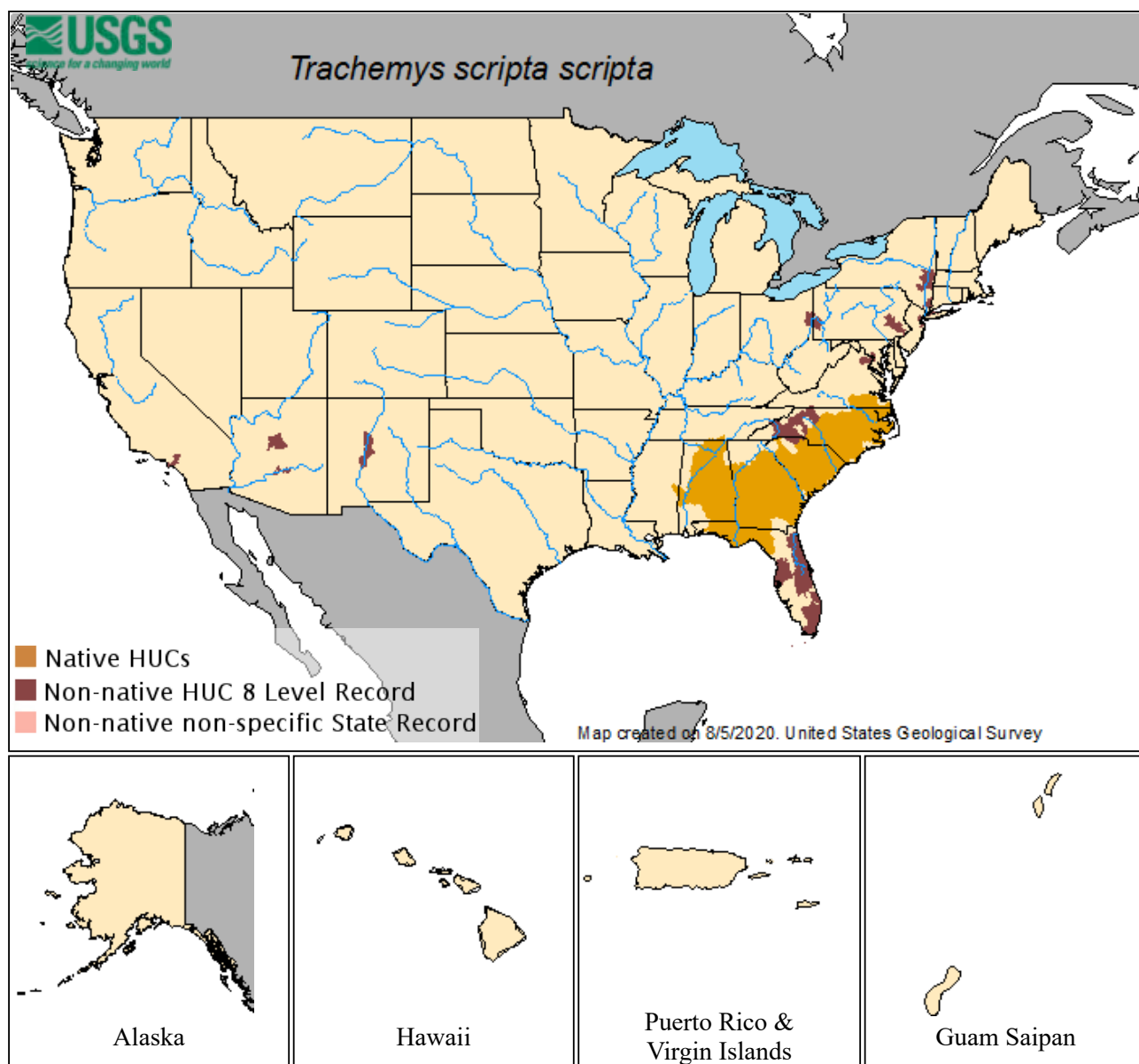
Taxonomy: available through www.itis.gov

Identification: *Trachemys scripta scripta* (Schoepff, 1792), the Yellow-bellied Slider, has a large yellow blotch behind the eye that is most evident in juveniles and females (Ernst et al., 1994; Conant and Collins, 1998). Broad vertical bands (when viewed from the side) are often present on the carapace, the yellow plastron (lower shell) typically has round dusky smudges or none at all, and narrow yellow stripes mark the front surface of the forelegs (Ernst et al., 1994; Conant and Collins, 1998).

Size: carapace length of 125-289 mm

Native Range: The Yellow-bellied Slider's indigenous range covers southeastern Virginia southward through the Coastal Plains of the Carolinas, Georgia, northern Florida and the eastern portion of Alabama (Martof, 1956; Mount, 1975; Stevenson, 1976; Martof et al., 1980; Moler, 1988; Ashton and Ashton, 1991; Gibbons and Semmlitsch, 1991; Mitchell, 1994; Palmer and Braswell, 1995; Conant and Collins, 1998; Bartlett and Bartlett, 1999a; King, 2000).

Other subspecies of *T. scripta* have been described as occurring in Mexico, Central America, Brazil, Uruguay, northern Argentina, and the Caribbean drainages of Colombia and Venezuela (Smith and Smith, 1973, 1976, 1979, 1993; Pritchard and Trebbau, 1984; Ernst and Barbour, 1989; Campbell, 1998); however, all of these are now given full species rank (Seidel, 2002). They are not covered in this account.



Nonindigenous Occurrences:

Table 1. States with nonindigenous occurrences, the earliest and latest observations in each state, and the tally and names of HUCs with observations†. Names and dates are hyperlinked to their relevant specimen records. The list of references for all nonindigenous occurrences of *Trachemys scripta scripta* are found here.

State	First Observed	Last Observed	Total HUCs with observations†	HUCs with observations†
AZ	1980	1999	2	Lower Salt ; Upper Verde
CA	2006	2006	1	San Gabriel
FL	1976	2019	20	Cape Canaveral ; Charlotte Harbor ; Crystal-Pithlachascotee ; Daytona-St. Augustine ; Escambia ; Everglades ; Florida Bay-Florida Keys ; Florida Southeast Coast ; Hillsborough ; Kissimmee ; Lower St. Johns ; Northern Gulf of Mexico ; Oklawaha ; Pensacola Bay ; Santa Fe ; Southern Florida ; Tampa Bay ; Upper St. Johns ; Upper Suwannee ; Withlacoochee
GA	2018	2019	1	Upper Chattahoochee
NJ	2019	2019	1	Sandy Hook-Staten Island

<u>State</u>	<u>First Observed</u>	<u>Last Observed</u>	<u>Total HUCs with observations†</u>	<u>HUCs with observations†</u>
<u>NM</u>	<u>1994</u>	<u>2016</u>	1	<u>Rio Grande-Albuquerque</u>
<u>NY</u>	<u>2014</u>	<u>2019</u>	3	<u>Lower Hudson; Middle Hudson; Northern Long Island</u>
<u>NC</u>	<u>2009</u>	<u>2019</u>	4	<u>Upper Broad; Upper Catawba; Upper French Broad; Upper Yadkin</u>
<u>PA</u>	<u>2013</u>	<u>2015</u>	3	<u>Lower Delaware; Schuylkill; Upper Ohio</u>
<u>VA</u>	<u>1992</u>	<u>1992</u>	1	<u>Middle Potomac-Anacostia-Occoquan</u>

Table last updated 9/11/2020

† Populations may not be currently present.

Means of Introduction: Throughout its nonindigenous range *T. scripta* is introduced primarily through pet releases and escapes; a situation which has continued for several decades since the 1930s, reaching a peak during the Teenage Mutant Ninja Turtle television cartoon craze of the late 1980s-early 1990s (Ernst et al., 1994; Mitchell, 1994; Brown et al., 1995; Frank and McCoy, 1995; Lamar, 1997; Branch, 1998; Cox et al., 1998; Albright, 1999; Bartlett and Bartlett, 1999a; Ota, 1999; Williams, 1999; Beebe and Griffiths, 2000; Salzberg, 2000; Thomas and Hartnell, 2000; Minton, 2001; Porras, 2002). Additionally, most species of turtles are subject to intense commercial trade in the Asian food market (Williams, 1999); therefore, the transport and potential release of *T. scripta* for food and aquaculture in Asia and U.S. Pacific states with proportionally large Asian populations cannot be ruled out. Stebbins (1985) claims that pond sliders may have been introduced to Baja California, Mexico, for food; but his identity of this species as *T. scripta* is uncertain.

As recently as 2001, a Dutch animal welfare group attempted to ship unwanted pet *T. s. elegans* to Italy for eventual nonindigenous release into the wild (M. Hoogmoed and J. Perala as communicated to K. Dodd, personal communication 2001).

Status: In nearly all of its nonindigenous localities in Canada, New York, New Jersey, Pennsylvania, Michigan, Virginia, North Carolina, South Carolina, and perhaps Massachusetts, isolated populations of *T. s. elegans* are reproducing and thriving (Stein et al., 1980; Manchester, 1982; DeGraaf and Rudis, 1983; Harding and Holman, 1990; Cardoza et al., 1993; Ernst et al. Nonindigenous Yellow-bellied Sliders are established in Fairfax County, northern Virginia (Ernst et al., 1997).

The status of occasional *T. s. scripta* found outside of their indigenous range in Florida (Bartlett, 1994) is unknown. A forthcoming assessment of the status of nonindigenous pond sliders in Florida will be made by Meshaka et al. (2003).

The *T. s. scripta* found in Arizona and the Rio Grande drainage of New Mexico do not yet represent established populations (Hulse, 1980; Stuart, 1995b, 2000; Degenhardt et al., 1996), but future surveys are required to establish this.

The records provided in this review may greatly underestimate the distribution of *T. scripta* in these states.

Impact of Introduction: Despite the vast worldwide occurrence of *T. scripta*, particularly *T. s. elegans*, little is known of its impact on indigenous ecosystems. In some countries, Red-eared Sliders compete with indigenous species for food and basking sites (Frank and McCoy, 1995; Williams, 1999; Salzberg, 2000). In the U.S. state of Washington, they are a potential threat to *Clemmys marmorata*, the Pacific pond turtle (Williams, 1999), a declining species endemic to the Pacific states (Brown et al., 1995). Red-eared Sliders seem to be adaptable to many climates. This combined with their omnivorous diet and ability to adapt to various habitats, gives them great potential for impacting indigenous habitats should reproducing populations become established. The spread of *T. s. elegans* throughout the Pacific states in the U.S. is ominous and requires further monitoring.

The spread of Red-eared Sliders in southern U.S. states, where the closely related Yellow-bellied Slider is indigenous, has the potential for *T. s. elegans* to compete with *T. s. scripta*. Additionally, interbreeding between the two races has occurred in various southern states (Ernst et al., 1994; Mitchell, 1994; Palmer and Braswell, 1995; Williams, 1999), which compromises the genetic integrity of indigenous Yellow-bellied Sliders. In New Mexico, *T. s. elegans* can cause a similar problem by hybridizing with *Trachemys gaigae* (Seidel et al., 1999; Stuart, 2000).

The conditions under which *T. scripta* are "farmed" or "ranch" for the pet trade are often extremely septic (Williams, 1999). Not only does this create the well-documented threat of salmonellosis in children who receive them as pets (Williams, 1999), but it could negatively impact indigenous wild turtles when released pets spread diseases and parasites into the environment (Stuart, 2000).

Remarks: The most current taxonomic reviews or summaries of pond sliders are by Seidel (1988, 2002), Seidel et al. (1999), and Iverson et al. (2000). Liner (1994) provides a list of regional vernacular names for *T. scripta*. The best summaries or literature reviews of the natural history of *T. scripta* are by Gibbons and Semlitsch (1991), Ernst et al. (1994), and various studies compiled by Gibbons (1990). Scientific and standard English names follow Crother (2008).

Pond sliders are aquatic, omnivorous generalists, which rarely leave water except to bask (Ernst et al., 1994; Brown et al., 1995; Conant and Collins, 1998; Cox et al., 1998). Adult turtles tend to be more herbivorous than juveniles, but both will opportunistically eat aquatic invertebrates (especially insects and mollusks), fish, frog eggs and tadpoles, aquatic snakes, and a wide variety of aquatic plants and algae (Ernst et al., 1994; Brown et al., 1995). Although they prefer quiet waters, *T. elegans* is highly adaptable and can tolerate anything from brackish waters, to manmade canals, and city park ponds (Ernst et al., 1994; Cox et al., 1998; Salzberg, 2000). The Red-eared Slider may wander far from water, and rapidly colonize any newly available habitat (Cox et al., 1998; Minton, 2001). In California, this ability to rapidly colonize available habitat may be aided by an extensive system of manmade canals and irrigation ditches. Females lay 2-23 eggs per clutch in a cavity dug out of the soil, and as many as five clutches may be oviposited per year (Gibbons, 1990; Ernst et al., 1994).

Pond sliders are commercially raised in incredibly large numbers for the pet trade throughout the southeastern U.S., especially Louisiana (Ernst et al., 1994; Williams, 1999; Salzberg, 2000). The sale of all turtles under the size of "4 inches" (about 100 mm) or viable eggs was banned in the United States, except for educational or research purposes, by the U.S. Food and Drug Administration in 1975 to prevent the spread of salmonellosis in children (Ernst et al., 1994; Level, 1997; Williams, 1999). Four inches or less is thought to be the size that a child can easily stuff into his mouth (Williams, 1999). The extensive use of antibiotics at turtle hatcheries in the U.S. has given rise to more antibiotic-resistant strains of *Salmonella* (Ernst et al., 1994). In many U.S. states *T. s. elegans* is the subject of specific regulation (Level, 1997). Nevertheless, undersized juvenile *T. scripta* are still commonly sold in pet stores in Florida, and as recently as 2002 they were sold by roadside vendors at a busy intersection in Gainesville, Florida (Somma, personal observation). The European Union has banned the import of *T. s. elegans* because of the negative impact that released pets can have on native European pond turtles (*Emys orbicularis* species complex) (Williams, 1999).

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Other Resources:

Petcommunity.org

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The Terrible Turtle Trade

**Around the world, turtles are being sold as pets and spreading disease.
They are even dissected live for their meat.**

By Ted Williams

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This article has been translated into Czech: www.autoersatzteile.de/blog/hrozny-turtle-obchodu.

This article has been translated into Indonesian: www.chamelejohn.com/translations/twilliams-Indonesian.

RABBITS THEY WERE NOT. Flopsy, Mopsy, and Cottontail were hatchling turtles, red-eared sliders the size of silver dollars, trucked to New England from “turtle ranches” in the South and casually tended by my two young sisters in the 1960s. They came with their own frying-pan-size pool with a plastic palm tree in the middle. When they died (which happened about twice a month), our mother would rush down to the pet store and buy new ones before my sisters returned from school. Sometimes Flopsy, Mopsy, and Cottontail died from overwhelming bacterial infection — i.e., they “went septic.” At other times they died from parasites or malnutrition or were eaten by our pet raccoon. My sisters wondered why extra pools were stacked all over the cellar and why their turtles never grew. Basically, they were disposable pets.

Since then, there have been big changes in the pet-turtle industry. Some species are no longer available, and prices for others have soared. This is because a third of the world’s 266 known species are threatened with extinction. Although the pet trade is only one of many threats, it has shown that the sustainable harvest of adult turtles is, as one herpetologist puts it, “an oxymoron.” The stunning success of the order Testudines over the past 210 million years has not been a function of fecundity. Turtles don’t spew eggs like fish and amphibians; instead, they rely on longevity, replacing themselves over decades. One wild adult represents an enormous genetic investment.

And yet wild adult turtles are legally and routinely caught and sold on domestic and foreign markets. Now that old-world turtles are in short supply and, in some cases, protected, North American box turtles are in greater demand. Box turtles, which can live for 120 years, are legally caught and peddled in this country. In Louisiana the state Department of Wildlife and Fisheries is waging a fierce lobbying blitz to get American box turtles removed from Appendix II of CITES (the Convention on International Trade in Endangered Species, to which 144 nations are signatory) so they can be sold abroad as well. The Appendix II designation permits foreign trade only if there’s proof it won’t hurt wild populations. But there is no such proof, says John Behler, head of herpetology at the Bronx Zoo and chair of the Tortoise and Freshwater Turtle Specialist Group of the International Union for the Conservation of Nature and Natural Resources. He calls Louisiana’s quest to redevelop the world market “harvest-till-they-drop management.”

Wood turtles, which can live for a century and don’t reach sexual maturity until they are 10 to 20, were rejected in 1994 for threatened status under the Endangered Species Act. Now they are so popular as pets that poachers have stripped entire watersheds. “In some states you can tell when poachers have been through a drainage,” says turtle researcher Jim Harding of Michigan State University. “One ridge over from a healthy population, there’ll be nothing. They pick them up by the gunnysack. Even though we’ve stopped that here in Michigan, every time the Boy Scouts canoe down a stream, they pick up one or two. Populations get knocked off suddenly by experienced poachers or over years by incidental collecting.”

Steve Garber, now a professor at Embry-Riddle Aeronautical University, in Prescott, Arizona, spent 20 years studying a wood-turtle population on 2,471 acres controlled by the South Central Connecticut Regional Water Authority. All was fine with his 133 marked subjects until 1983, when the watershed was opened to public recreation. Immediately the turtles began to disappear. Garber was baffled. He checked disease, road mortality, predation. Finally, he discovered hikers were taking the turtles home one at a time. In 1991 only 14 remained. In 1992 they were gone.

The foreign and domestic sale of wood turtles is illegal, but some states let people collect them for pets. So all pet wood turtles are said to have been collected rather than purchased, and wildlife officers can rarely make a case against poachers. In Florida, 20- and 30-year-old adult turtles (supposedly bred in captivity) had been arriving at wholesalers by the pickuptruck load and finding their way to Europe. Equally stressed by the pet trade are spotted and map turtles. Bog turtles, declared federally threatened in 1997, go for about \$1,000 each on the black market. “It seems impossible to think of someone catching a robin and selling it at a pet store,” says Garber. “We now take it for granted that those animals are totally off-limits, but in many cases catching and selling wild turtles is completely legal.”

Pet stores still carry redeared sliders, selling them for \$10 to \$15 each, but the silver-dollar-size ones are no longer available. In 1975 the Food and Drug Administration banned domestic sale of turtles less than four inches in length because they were causing an estimated 300,000 cases of salmonellosis annually. Rancher turtles are fed slaughterhouse offal rich in salmonella, and when children would put the hatchlings in their mouths, they'd get sick. It wasn't that the big ones were any less riddled with disease, it was just that they didn't slide so trippingly over the tongue. The ranches (which aren't ranches at all but fenced-in ponds into which adult sliders from the wild are continually dumped for breeding stock) responded by catching even more wild adults for sale in the United States and by shifting the hatchling trade overseas. Today about 8 million hatchlings, most of them laden with salmonella, are annually exported to 60 nations.

Venting excuses and apologies for the pet-turtle trade is Marshall Meyers, executive vice-president of a trade group called the Pet Industry Joint Advisory Council. But when I asked him if it was hypocritical of the United States to declare mouth-size turtles too dangerous for anyone but foreigners, he gave me an honest answer: "Since when has the U.S. government not been hypocritical?"

The pet-turtle business is infecting more than just people. "We are, in fact, exporting our turtle-disease problems around the world, and the potential for problems of epidemic proportions to wild stocks is high," Behler warns. When the pets get sick or their owners tire of them, they are tossed or flushed into habitat occupied by native turtles. Red-eared sliders, for example, native to the Mississippi drainage from Illinois south, are now established in the wild all over the world. In Washington they are threatening the vanishing Pacific pond turtle. In the southeastern states they are compromising the genetic integrity of yellow-bellied sliders by breeding with them. Two years ago the 16-member European Union banned the import of red-eared sliders because of the damage they are said to be doing to European pond turtles. Meanwhile, in the Mississippi system—the one place red-eared sliders belong—they are in decline.

Two turtle species — desert tortoises in the West and gopher tortoises in the Southeast — are getting clobbered by a fatal respiratory-tract infection that they may have contracted from imported tortoises unleashed in their habitat. Nearly 250,000 desert tortoises are kept as pets in California, Arizona, and Nevada, and wherever the respiratory disease is encountered, feral tortoises are found nearby. Turtle authority Bill Belzer, a biologist at Clarion University, in Pennsylvania, reports, "More than 50 percent of the individuals in some desert-tortoise populations now carry this contagious, incurable disease, pressing the species toward extinction." Recently the malady has shown up in North American box turtles.

Quickening the spread of turtle disease here and abroad is the belief of some Asians that good karma can be had by being kind to captive turtles — i.e., setting them free. In America and around the world you can buy wild-caught specimens for the express purpose of releasing them—except that in many cases they don't belong in the places they are released. In New York City a dealer of Florida softshell turtles — a species that lives in warm freshwater habitats—recently sold a load to a Buddhist temple, then watched while the animals were ceremoniously dumped into New York Harbor.

Last December I visited the Turtle Hospital of New England, in Upton, Massachusetts — the only health-care facility in North America for land and freshwater turtles. It is directed by Barbara Bonner, an intense young veterinarian who teaches reptile clinical medicine at Tufts University. Turtles from all over the world stretched their necks at us as we walked past their plastic tubs. They were begging for food, usually processed pellets. Some of the patients that weren't begging had intravenous catheters protruding from their necks or fiberglass-and-epoxy patches on broken carapaces and plastrons. Some were septic and oozing blood through their shells. A few were on oxygen. Bonner showed me an enormous fish hook she had extracted from the gullet of a now-robust Florida softshell legally harvested by baited setline and legally sold at a Boston fish market. With a Doppler ultrasound probe we listened to the whoosh-shoosh-whoosh heartbeat of a healed flower-box turtle and the much slower pulse of a diseased one.

Unlike birds or mammals, abused turtles take a year or two to get sick. Even with the right treatment, which few vets other than Bonner are trained to provide, they take a year or two to get well. According to Bonner, virtually all turtles from pet stores are desperately sick when purchased. "It takes about six months just to clean them up and rid them of parasites," she says. "Some are half the body weight they ought to be. It's estimated that 95 percent of the wild turtles that enter the pet trade are dead within a year. Pet stores don't make their money selling the turtle; they make their money selling the \$250 setup that goes with it. So if your pet dies, it doesn't matter to them, because with that kind of investment, you're going to buy another."

Reptile dealers (who sell hundreds of species to the pet trade) frequently salvage wild turtles from food markets in China, where it is believed that humans can acquire longevity by eating turtle meat. There is scant interest in eating captive-bred turtles, because they are perceived, correctly, to be not long-lived. The Chinese consumed their own turtles long ago; but in the late 1980s, when their currency became interchangeable on the world market, they began consuming everyone else's. All the turtles of Southeast Asia — 65 species, a quarter of the world's total — are now in grave danger. "It's the greatest reptile crisis since the demise of the dinosaurs," declares Bonner.

In July 1997, American veterinarian and turtle collector William McCord visited two Chinese turtle markets in the cities of Guangzhou and Shenzhen. He reported seeing about 10,000 turtles sold over a two-day period. And after a recent trek to Vietnam, Ross Kiester of

the U.S. Forest Service's Global Biodiversity Team filed this report: "Wherever we looked there was what we called a reverse pet shop—a storefront with signs advertising it would buy any kind of turtle. We've recently been told that those stores are closing since there are no more turtles left to buy."

Ironically, the U.S. pet trade provides some of these species their one chance to escape extinction. If enough people like Bonner can purchase food-market refugees from pet dealers and get them to reproduce in captivity, there's a possibility of someday restocking Southeast Asia. That, in fact, is the primary mission of the Turtle Hospital of New England, whose Turtle Bank works with nine needy Southeast Asian species that Bonner has identified as most practical to obtain and breed. The main problem is that the turtles arrive in frightful condition. Many haven't eaten for six months, and some have been packed on ice. Having been kept in filthy water and mixed with turtles of all species, they are loaded with pathogens and parasites. Typical was the flower-box turtle mailed to the hospital by a colleague in Chicago. When I saw it, its eyes were crusted shut. It was septic, emaciated, on a feeding tube, and receiving ten medications, some intravenously. Yet, tenuous and pathetic as its existence was, this turtle was one of the lucky ones.

The bank's two specimens of *Geoemyda yuwonoi* — a species for which there is not yet a popular name because it was discovered only three years ago, on an island in Southeast Asia — were doing somewhat better. They had arrived from a Chinese food market carrying one egg each (the normal clutch size); but they were so sick that the eggs would have rotted inside them. To save their lives, Bonner had administered a drug to make them lay the eggs, which to her surprise seemed viable and are now in the incubator.

"How do we stop the slaughter?" I asked her.

"You don't," she said. "You establish refugee populations in as many places as you can, and you wait for the animals to become extinct in the wild and for people to value them alive." The video Bonner ran for me — shot by McCord at the turtle markets in Guangzhou and Shenzhen — convinced me that she had it right. Trucks, crates, and barrels were packed with live turtles, including at least five species listed on Appendix I of CITES — the critically endangered designation, which forbids trade among member nations, of which China is one. Since there is no refrigeration at the Chinese markets, turtles must be kept alive, but this in no way interferes with preparation of the animals as food. Butchers carefully remove carapaces and plastrons with chisels and hammers. Fat is sliced out, unwanted organs discarded, and the still-living beasts stacked on display counters. "I can't watch this; I'll be back," announced Bonner when a butcher began chopping away at a large softshell. After the carapace and several pounds of organs had been removed, what remained of the turtle bit the knife and was beaten back. [\[See slide shows on this site of still photos taken along with McCord video.\]](#)

Even Chinese markets in the United States butcher turtles this way. Humane laws that apply to warmblooded creatures don't apply to reptiles, because the public somehow equates the ability to experience pain with the ability to thermoregulate. In 1981 Congress asked the Fish and Wildlife Service to promulgate regulations for humane and healthful importation of reptiles, but the agency didn't get around to it until 1997. When the draft regulations were published, the pet industry shrieked and the Fish and Wildlife Service retreated. At this writing the regulations are said to be in the works again, but that could mean anything. The airlines have regulations for both importation and exportation, but these are commonly ignored, because only about 7 percent of the shipments are ever inspected. "People don't realize that while they are on the plane sipping their sodas there are turtles and lizards below them, bleeding to death," says Teresa Telecky, director of wildlife trade for the Humane Society of the United States.

That's not just animal rights hyperbole, according to wildlife inspector Joe Ventura of the Fish and Wildlife Service, who works the Port of Los Angeles. "We've seen turtles stacked on their sides like dinner plates so they couldn't extend their limbs," he says. Turtles destined for the pet trade are often shipped in cardboard boxes that get crushed when cargo shifts, and it's not unusual to see these boxes soaked with blood. In one shipment from Tanzania, 511 pancake tortoises and 307 leopard tortoises had been packed on top of one another. Fifty animals were dead, 400 appeared near death, and almost all were grievously dehydrated. There was much blood, many broken carapaces, and dozens of missing legs. About 50 females carried broken eggs. [\[See also "CITES and the Turtle and Tortoise Trade".\]](#)

"I am a turtle keeper," says Allen Salzberg, director of the Society for the Conservation of Reptiles and Amphibians. "But I also believe that the continued shipping of turtles into the U.S. in the present unregulated state is pure consumer fraud. Stress kills turtles. What can be more stressful than being crammed into a box with hundreds of other animals for a week or more? Even if an animal survives, the damage has been done, and it's only a matter of time until it dies."

But the pet industry's Meyers told me, "Our industry advocates humane transport rules by the airlines. In fact, we forced them to put in some humane standards back in the early 1970s. You don't condemn a whole activity by an isolated shipment." When I asked him if, given all the problems of depletion, genetic contamination, and disease, people should keep pet turtles at all, he said, "Should people keep dogs? Dogs have disease, too. Dogs run free. There's a split in the environmental community. There are some people who believe in sustainable use. There are some that don't." I guess it depends how you define sustainable.

Something was bothering me about all the turtle conservationists I talked to. If having turtles for pets is as reprehensible as they claim, how is it that almost all of them have kept and/or keep pet turtles? “That’s the conundrum,” explained Bonner. “The only chance turtles have is for people to care passionately about them. But if you grow up without ever having turtles as pets or ever coming close to them in the wild, you become an adult who doesn’t care if turtles stay on the planet. People who want a turtle shouldn’t go to a pet store, and they shouldn’t catch one. They should contact a turtle society and get the name of a reputable breeder. Turtles sold by breeders are expensive—maybe \$150 each—but more likely to be healthy. People need to understand that turtles are long-lived; nobody should buy one without being willing to make a 50-year commitment.”

Having watched my sisters’ disposable red-eared sliders cascade into the black hole of pestilence and predation, and having raised a turtle-doting daughter of my own, I now offer this advice to parents: All children who beg for a pet turtle should be ignored for at least two months. If they persist after that, it’s okay to listen. Ask why they want one. Fondness for the television cartoon Teenage Mutant Ninja Turtles is not a good reason. (When the series debuted in Britain, one pet dealer reported a 400 percent increase in turtle sales.) If you know someone who keeps a turtle, ask if your child can scrub the green scum off the sides of the tank and the rocks, dump the smelly water, and watch while the turtle shreds its food and, as likely as not, bites the hand that feeds it.

After four months, if the child asks again, provide the phone number of a top breeder and announce that it’s okay to start saving money.

[Return to The Asian Turtle Crisis.](#)

1. **Requested Motion:**

Meeting Date: October 15, 2020

Criteria for Murals - draft ordinance to LPA for review and recommendations

Why the action is necessary:

Town Council has initiated zoning in process pending the development of language that addresses murals within the Town.

What the action accomplishes:

Direction from Town Council will assist the LPA and staff in preparing an Ordinance for public hearing and Council review.

2. **Agenda:**

ITEMS FOR DISCUSSION

3. **Requirement/Purpose:**

Discussion

5. **Background:**

Attachments:

1. 114030760_1_Draft FMB Mural Ordinance-C2

Financial Impact:

6. **Alternative Action**

Provide direction

7. **Staff Recommendations:**

8. **Recommended Approval:**

Jason Green, Community Development
Services

Date: October 07, 2020

John R Herin Jr, Town Attorney

Date: October 07, 2020

Amy Baker, Deputy Town Clerk

Date: October 07, 2020

Roger Hernstadt, Town Manager

Date: October 08, 2020

Chapter 34 – Zoning Districts, Design Standards and Nonconformities

Article IV Supplemental Regulations

Division 24. - Murals

Sec. 34-____. – Applicability of Division

This division of code shall apply to all hand-produced work of visual art applied to an external wall, hereafter called murals.

Sec. 34-____. - Development Regulations

Murals are permitted in all zoning districts if in compliance with the following regulations:

- (1) Any murals within the RS, RC or RM zoning district may not be visible from another residence.
- (2) Murals shall not exceed the dimensions of the wall or walls upon which it is applied.
- (3) Murals may not contain letters, numbers or logos associated with a business. Murals may include the signature of the artists(s).
- (4) Murals may not contain electrical or mechanical components, moving structural elements, lighting elements or automated elements that move or give the appearance of motion.
- (5) Murals may not be computer-generated prints, images or vinyl.
- (6) Murals shall depict scenes or subjects that are of a beach or beach community theme.
- (6) Materials used for the creation of the mural may not create any hazard and shall be weather resistant.
- (7) Murals shall be maintained free of any graffiti. All graffiti shall be removed in an expeditious manner; and
- (7) Murals shall comply with all relevant building safety codes and standards, and be kept in good repair with no chipped, fading, or peeling paint.

Sec. 34-____. - Application and Process

All murals must receive approval from the Town prior to installation. No mural shall be installed unless written permission is first obtained by the owner of the building upon which the mural is to be placed.

Applicants shall submit the following for review:

- (1) The application for a mural;
- (2) The appropriate fee;
- (3) A concept drawing of the proposed mural; and

- (4) A plan showing the location of the mural in relation to surrounding uses and, if appropriate, photos indicating the location of the mural in relation to other structures.

Staff shall review all submitted documents and provide a report to the Community Resource Advisory Board (CRAB) for their review and decision. CRAB may approve the mural if it meets all of the development regulations listed in Sec. 34-1701, may deny the proposal if it does not meet the development regulations or may refer the proposal to the LPA for a decision.

Sec. 34-____. – Maintenance and Modifications

Upon approval, the property owner/building owner shall submit a signed and notarized agreement to maintain the mural in compliance with the property maintenance regulations and this division.

Sec. 34-____. - Enforcement and Penalties

- (1) 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.
- (2) This article may be enforced by any duly authorized law enforcement officer, town code enforcement officer or town designee.
- (3) 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.
- (4) 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 per day per violation for initial violations, and \$500 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.
- (5) 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.

To be included in Section 34-2. Definitions:

Building Painting/Mural means an original, hand-produced work of visual art applied to an external wall through the application of paint, canvas, tile, metal panels, and applied sheet graphic so the wall becomes the background surface for the visual art, which is considered generic art and does not graphically depict a business-related product or service. Any business-related wording

in the painting/mural shall be considered signage and shall be calculated as such and require zoning authorization.

Graffiti means any scribbled, scratched, or painted writing or drawings illicitly placed on a wall or other public or private surface.

1. **Requested Motion:**

Meeting Date: October 15, 2020

Discussion of implementation of the Nuisance Abatement Board

Why the action is necessary:

What the action accomplishes:

2. **Agenda:**

ITEMS FOR DISCUSSION

3. **Requirement/Purpose:**

Ordinance

5. **Background:**

Attached ordinance 20-13 was approved by Town Council on September 21, 2020.

- How are cases identified?
- How are cases to be "prosecuted"?
- Will the Town Attorney be the prosecutor or the NAB attorney?
- How to select the board itself?

Attachments:

1. Ordinance 20-15, Nuisance Abatement Board

Financial Impact:

Unknown

6. **Alternative Action**

7. **Staff Recommendations:**

8. **Recommended Approval:**

John R Herin Jr, Town Attorney

Date: October 07, 2020

Amy Baker, Deputy Town Clerk

Date: October 07, 2020

Roger Hernstadt, Town
Manager

Date: October 08, 2020

ORDINANCE NO. 20-13

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA ADOPTING A NEW ARTICLE V, OF CHAPTER 16 OF THE CODE OF ORDINANCES OF THE TOWN OF FORT MYERS BEACH ENTITLED “NUISANCE ABATEMENT BOARD”, PROVIDING FOR THE CREATION OF A NUISANCE ABATEMENT BOARD; INTENT AND JURISDICTION; PROVIDING FOR CERTAIN ACTIVITIES TO BE DECLARED NUISANCES; DEFINITIONS; ORGANIZATION; INITIATION OF PROCEEDINGS; CONDUCT OF HEARINGS; COSTS AND FINES; APPEALS; ENFORCEMENT; RIGHTS RESERVED; AND PROVIDING FOR SEVERABILITY; CODIFICATION; SCRIVENER’S ERRORS; CONFLICTS OF LAW AND PROVIDING AN EFFECTIVE DATE.

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

WHEREAS, Article X of the Town Charter of the Town of Fort Myers Beach (“Town”) 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 desires to enact regulations to address places or premises used as sites for the unlawful sale or delivery of controlled substances, prostitution, youth and street gang activity, illegal gambling, murder, attempted felony murder, aggravated battery with a deadly weapon, aggravated assault with a deadly weapon without intent to kill, or declared to be a nuisance under Sections 823.05 or 823.10, Florida Statutes, because of the adverse effects of such activities on the public health, safety, and welfare of the businesses and residents of the Town; and

WHEREAS, the Town finds it to be in the best interests of the Town and its residents to adopt this Ordinance to promote, protect and improve the public health, safety and welfare of the residents of the Town; and

WHEREAS, on August 17, 2020 the Town Council held a first reading of this proposed Ordinance; and

WHEREAS, on September 21, 2020 the Town Council held a second reading of this proposed Ordinance.

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

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

Section 2. A new Article V of Chapter 16 of the Code of Ordinances of the Town of Fort Myers Beach entitled "Nuisance Abatement Board" is hereby adopted to read as follows:

CHAPTER 16 – OFFENSES
ARTICLE V – NUISANCE ABATEMENT BOARD

Sec. _____. – Creation of a nuisance abatement board

Pursuant to Chapter 166 and Chapter 893, Florida Statutes, the Town of Fort Myers Beach Nuisance Abatement Board is created.

Sec. _____. – Intent and purpose

It is the intent of this Article to establish the Town of Fort Myers Beach Nuisance Abatement Board. The purpose of this Article is to promote, protect, and improve the health, safety and welfare of the residents of the town by providing an equitable and effective method to reduce the use of property within the town for the unlawful sale or delivery of controlled substances, prostitution, youth and street gang activity, illegal gambling, murder, attempted felony murder, aggravated battery with a deadly weapon, aggravated assault with a deadly weapon without intent to kill, or declared to be a nuisance under Sections 823.05 or 823.10, Florida Statutes.

Sec. _____. – Jurisdiction

The Nuisance Abatement Board shall have jurisdiction throughout the town.

Sec. _____. – Definitions

Clerk means a person retained by the town to perform the required clerical duties for the Nuisance Abatement Board, and such other duties as provided herein necessary to carry out all of the activities of the Nuisance Abatement Board.

^{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~~.

Council means the Town Council of Fort Myers Beach.

Nuisance Abatement Board means the persons appointed by the Council and designated as the town Nuisance Abatement Board.

Operator means a tenant, lessee, or person having control or possession of a place or premises, which is the subject of a complaint filed with the Nuisance Abatement Board.

Owner means the lawful owner of real property consisting of a place or premises, which is the subject of a complaint filed with the Nuisance Abatement Board.

Party means a complainant, owner or operator.

Public Nuisance means all relevant Florida Statutes pertaining to public nuisances as they may be renumbered or amended from time to time, and other relevant provisions of Florida law. Generally, but not limited to, a public nuisance shall mean any place or premises which has been the site on more than two (2) occasions within a six-month period:

- (1) The unlawful sale or delivery of controlled substances as defined by law, or
- (2) A youth and street gang for the purpose of conducting a pattern of youth and street gang activity as defined by law, or
- (3) Prostitution, or solicitation of prostitution as defined by law, or
- (4) Illegal gambling as defined by law, or
- (5) Murder; or
- (6) Attempted felony murder; or
- (7) Aggravated battery with a deadly weapon; or
- (8) Aggravated assault with a deadly weapon without intent to kill; or
- (9) Declared to be a nuisance under Sections 823.05 or 823.10, Florida Statutes, as they may be renumbered or amended from time to time.

Sec. _____. - Certain activities declared nuisances

Any place or premises within the town that has been found on more than two (2) occasions within a six-month period as a site for the unlawful sale or delivery of controlled substances, prostitution, youth and street gang activity, illegal gambling, murder, attempted felony murder, aggravated battery with a deadly weapon, aggravated assault

with a deadly weapon without intent to kill, or declared to be a nuisance under Sections 823.05 or 823.10, Florida Statutes, is a public nuisance.

Sec. _____ . – Composition and organization

- (a) The Town Council shall appoint a seven-member Nuisance Abatement Board. Each Councilmember shall appoint one member, and two (2) members shall be appointed "at large", collectively, by the Town Council, one member who shall be an attorney in good standing with the Florida Bar.
- (b) All board members, except the Chair shall be residents of the town. One (1) member may be a retired law enforcement officer as defined in Section 943.10, Florida Statutes, who is not currently employed nor engaged in any law enforcement activities.
- (c) One (1) member may be a local attorney with a criminal prosecution or criminal defense background currently practicing law in Lee County and a member in good standing with the Florida Bar.
- (d) One (1) member may be a local attorney practicing law in any other area of the law, currently practicing in Lee County and a member in good standing with the Florida Bar.
- (e) Four (4) members of the general public, who possess outstanding reputations for civic pride, integrity, responsibility and business or professional ability who may be engaged in matters involving real property, banking, finance, social work, religious work, or other local matters, with an interest or any experience in abating public nuisances and who reflect the ethnic and cultural diversity of the community.
- (f) The initial appointments to the Nuisance Abatement Board shall be as follows:

 - (1) The seven (7) members shall be appointed for a term of three (3) years each.
 - (2) A member may be reappointed for successive terms by the appointing Councilmember upon the Town Council approval.
 - (3) If a member fails to attend two (2) out of three (3) successive meetings without cause and without prior

- approval of the Board Chair, the Nuisance Abatement Board shall declare the member's office vacant and the Town Council shall promptly fill such vacancy. Members shall serve in accordance with applicable state law and all other ordinances and regulations of the town, and may be suspended or removed with or without cause by the Town Council.
- (4) The Town Council members of the Nuisance Abatement Board shall elect a Chair and Vice-Chair who must be a licensed attorney in good standing with the Florida Bar. A Clerk shall be provided by the town and shall be responsible for clerical and administrative duties as may be reasonably required by the Nuisance Abatement Board for the proper performance of its duties.
- (5) The presence of at least ~~three~~ (3) ~~four~~ (4) members shall constitute a quorum of the Board for the purposes of conducting the Board's general business. A majority vote of those members present shall enable the Nuisance Abatement Board to take any action, except that in no case, may the Nuisance Abatement Board find the existence of a nuisance, enter any order, or direct counsel to seek any judicial relief by a vote of less than four (4) members. The Nuisance Abatement Board shall adopt such additional internal procedures and rules, as it deems necessary to conduct its regular business. Members shall serve without compensation.
- (ge) The town attorney or designee shall represent the Nuisance Abatement Board in all matters and at all proceedings.

Sec. _____. - Initiation of proceedings

- (a) Any person who resides in or is employed within the town may file a complaint with the Lee County Sheriffs Office (LCSO) Nuisance Abatement Coordinator or the Town with regard to nuisances as described in this article. However, no member of the Nuisance Abatement Board may file such a complaint.
- (b) The LCSO Nuisance Abatement Coordinator shall or Town may schedule a hearing with the Nuisance Abatement Board for each complaint after the town attorney or designee determines the complaint and supporting documentation that sufficiently alleges a nuisance as defined in this article, and

such place or premises was used on more than two (2) occasions within a six-month period in violation of Sec. (certain activities declared nuisances), and the nature of the evidence the LCSO Nuisance Abatement Coordinator or Town or other designee will introduce to prove such nuisance occurred at the place or premises.

- (c) Upon the written approval of the town attorney or designee The the LCSO Nuisance Abatement Coordinator or Town shall give written notice of every hearing by certified mail or hand delivery to the owner(s) and/or operator(s) of the designated property at the last known address(es), at least fourteen (14) days prior to the scheduled hearing. If an attempt to reach an owner or operator by certified mail or hand delivery is unsuccessful, notice of hearing may be by publication as provided for in Chapter 49, Florida Statutes. Notice to owners shall include the following:

- (1) The time, date, place, and nature of the hearing;
- (2) A reference to this article;
- (3) A short and plain statement summarizing the incidents, which form the basis of the complaint;
- (4) A statement that "Failure to attend may result in an order being issued adverse to your property interests";
- (5) A statement that all parties may be represented by counsel;
- (6) A statement that all parties shall be given an opportunity to present evidence in support of their position, submit rebuttal evidence, and conduct cross-examinations; and
- (7) A conspicuous statement reflecting the requirements of Chapter 286, Florida Statutes, that a person deciding to appeal any decision of the Nuisance Abatement Board will need to ensure that a verbatim record of the proceedings is made.

- (d) Meetings of the Nuisance Abatement Board may be scheduled by the Chair, by written notice signed by at least three (3) Board members, or by the Board at any meeting. All meetings shall be open to the public and minutes shall be kept and recorded.

Sec. _____. – Conduct of hearing

- (a) The Nuisance Abatement Board shall adopt procedure rules for the conduct of its hearings generally consistent with the Florida Rules of Evidence. All hearings and proceedings shall be open to the public and minutes kept. All testimony shall be taken under oath and shall be recorded.
- (b) The Nuisance Abatement Board shall proceed to hear complaints on the agenda for the day scheduled for the public hearings. Before the Nuisance Abatement Board may hear a complaint, the Board shall make a finding that the notice requirements as set forth herein have been satisfied. In no case shall the Nuisance Abatement Board proceed to hear any complaint unless the notice requirements herein have been found to be satisfied.
- (c) The Florida Rules of Evidence shall not apply, but both substantive and procedural due process rights of the parties shall be preserved. The Nuisance Abatement Board may consider any evidence, including evidence of the general reputation of the place or premises, in its decision process. All evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs may be admissible, whether or not such evidence would be ordinarily admissible in a Florida Court under the Rules of Evidence.
- (d) Each party shall have the following rights:
 - (1) To call and examine witnesses;
 - (2) To introduce documentary evidence, exhibits, or physical evidence;
 - (3) To cross-examine opposing witnesses on any relevant matter;
 - (4) To impeach any witnesses;
 - (5) To submit rebuttal evidence; and
 - (6) To be represented by counsel.
- (e) The owner of the place or premises in question may introduce evidence as to any remedial or mitigating measures taken to abate the conditions, which led to the illegal conduct (nuisances) on his/her premises.
- (f) All findings of the Nuisance Abatement Board shall be based upon the standard of a preponderance of the evidence. The Nuisance Abatement Board may rely on rebuttal evidence, impeachment evidence, or other relevant factors to the hearing. Hearsay evidence may be used for the purpose of

supplementing or explaining other evidence, but it shall not be sufficient in and of itself to support a finding of a public nuisance. The burden of proof shall be on the party bringing the complaint.

- (g) At the conclusion of the hearing, the Nuisance Abatement Board shall issue written findings of fact and its conclusions with respect to the issues brought before it by the LCSO or Town Nuisance Abatement Coordinator, or other designee.
- (h) If the Nuisance Abatement Board finds that on more than two (2) occasions, a place or premises was the site of an unlawful sale or delivery of controlled substances, prostitution, youth and street gang activity, illegal gambling, murder, attempted felony murder, aggravated battery with a deadly weapon, aggravated assault with a deadly weapon without intent to kill, or declared to be a nuisance under Sections 823.05 or 823.10, Florida Statutes, the Nuisance Abatement Board may find and declare the place or premises in question to be a public nuisance. Upon such declaration, the Nuisance Abatement Board may enter an order immediately prohibiting:

 - (1) The maintaining of the nuisance;
 - (2) The operating or maintaining of the place or premises; or
 - (3) The conduct, operation, or maintenance of any business or activity on the premises, which is conducive to such nuisance.
- (i) An order of the Nuisance Abatement Board shall automatically expire on its terms after one (1) year, or at such earlier time as may be stated in the Order, or upon further action of the Nuisance Abatement Board.

Sec. _____. – Costs and fines

- (a) In the event that the Nuisance Abatement Board finds a place or premises to be a public nuisance and issues an order as provided for herein, the Nuisance Abatement Board shall assess against the owner of the place or premises the reasonable costs which the town and Sheriff's Office incurred in the preparation, investigation, and presentation of the case.
- (b) The Nuisance Abatement Board may enter an order:

- (1) Imposing a fine not to exceed \$250 per day for each day that conduct occurred upon which the Board based its finding of a public nuisance; and/or
 - (2) Imposing a fine not to exceed \$500 per day for recurring public nuisance conduct occurring on the premises. A "recurring public nuisance conduct" means any additional instances of conduct after being found a public nuisance; and/or
 - (3) Imposing a fine not to exceed \$100 per day for each day the owner of the premises fails to comply with an order of the Board.
 - (4) The total fines imposed shall not exceed \$15,000 during the effective term of any order.
- (c) These costs and/or fines shall be due and payable thirty (30) days after the written order of the Nuisance Abatement Board has been filed or such other time as the Nuisance Abatement Board may direct. A certified copy of an order imposing costs and/or fines may shall be recorded in the public records and thereafter shall constitute a lien against the land on which the violation exists or, if the violator does not own the land, upon any other real or personal property owned by the violator; and it may be enforced in the same manner as a court judgment by the sheriffs of this state including levy against the personal property, but shall not be deemed to be a judgment of a court except for enforcement purposes. After one year from the filing of any such lien, which remains unpaid, the town may foreclose or otherwise execute on the lien. Interest shall accrue on the unpaid costs and/or fines at the rate of interest set forth in Section 55.023, Florida Statutes, as that section may be amended from time to time.

Sec. _____. – Appeals

An aggrieved party may appeal a final order of the Nuisance Abatement Board to the Circuit Court of the Twentieth Judicial Circuit. Such an appeal shall not be a hearing de novo, but shall be limited to an appellate review of the record created before the Nuisance Abatement Board. Such appeal shall be filed within thirty (30) days of the date of the written order from the Nuisance Abatement Board. No appeal may be sought beyond the thirty (30) day filing time as set out herein.

Sec. _____. - Enforcement

The Nuisance Abatement Board, with the approval of the Town Council, may direct the town attorney to bring a complaint under Section 60.05, Florida Statutes, seeking an injunction against any place, property or premises found to be a public nuisance in addition to, or for the purposes of enforcement of any order of the Nuisance Abatement Board. The Nuisance Abatement Board, with the approval of the Town Council, may additionally seek any other lawfully available relief as may be provided or permitted by law. Notwithstanding any other code section or law, a rental property that is declared a nuisance under this article may not be abated or subject to forfeiture under the Florida Contraband Forfeiture Act if the nuisance was committed by someone other than the property owner and the property owner commences rehabilitation of the property within 30 days after the property is declared a nuisance and completes the rehabilitation within a reasonable time thereafter.

Sec. _____ - Rights preserved

This article does not limit, restrict nor abridge the rights of any person to proceed under Section 60.05 of the Florida Statutes against any public nuisance, nor prohibits any jurisdiction from proceeding against a public nuisance by any other lawfully available means.

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.

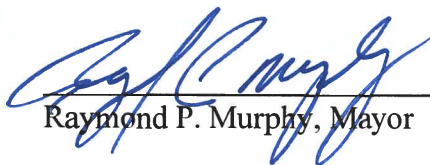
Section 6. This ordinance shall become effective upon adoption by the Town Council.

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

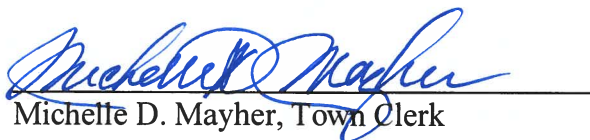
Raymond P. Murphy, Mayor	nay
Rexann Hosafros, Vice Mayor	nay
Dan Allers, Council Member	aye
Jim Atterholt, Council Member	aye
Bill Veach, Council Member	aye

ADOPTED this 21st day of September, 2020 by the Town Council of the Town of Fort Myers Beach, Florida.

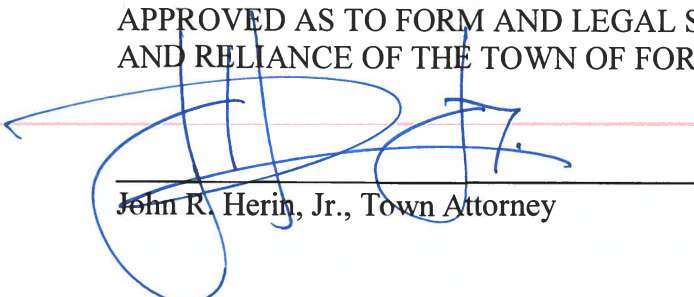
TOWN OF FORT MYERS BEACH


Raymond P. Murphy, Mayor

ATTEST:


Michelle D. Mayher, Town Clerk

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


John R. Herin, Jr., Town Attorney

This Ordinance was filed in the Office of the Town Clerk on this 15 day of October 2020.

	AGENDA MANAGEMENT			Meeting
93	Draft Prohibition: Sale of Turtles	Attorney	added 9.10.2020	10.15.2020 M&P
96	Presentation: Tetra Tech & Cella Molnar	Utilities	added 9.29.2020	10.15.2020 M&P
94	Discussion: Murals	PI & Z	added 8.19.2020	10.15.2020 M&P
48	New Year's Eve Fireworks discussion	P&R	added 9.15.2020	10.15.2020 M&P
95	Discuss Implementation of NAB	Admin	added 9.29.2020	10.15.2020 M&P
82	Employee Service Recognitions	Admin	added 9.8.2020	10.19.2020
100	Lee County officials with update of FMB projects	Admin	added 10.2.2020	10.19.2020
89	Capital Project - Newton Beach Cottage Exterior Restoration & Painting	P&R	added 9.15.2020	10.19.2020
101	DRMP Presentation and STA	Public Works	added 9.10.2020	10.19.2020
85	FY20/21 Supplemental Task Authorizations (Axis, GFA, SWFL Env)	Clerk	added 9.14.2020	10.19.2020
98	Renewal of upland services	Public Works	added 9.29.2020	10.19.2020
79	Re-Appropriations - 1st of 2	Finance	added 8.19.2020	10.19.2020
99	Lobbyist Ronald Book	Admin	added 9.24.2020	11.02.2020
68	Re-Appropriations - 2nd of 2	Finance	added 8.19.2020	11.16.2020

County Estero Blvd. Update at the first M&P of each month