

ORDINANCE 14-02

AN ORDINANCE AMENDING CHAPTER 27 OF THE TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE, "PERSONAL WATERCRAFT AND PARASAILING;" AMENDING SECTION 27-52 BY CHANGING THE NUMBER OF PWVL LICENSES THAT CAN BE OUTSTANDING ANY POINT IN TIME FROM TEN (10) TO ELEVEN (11); AMENDING SECTION 27-55 BY PROVIDING THAT A PWVL MAY BE TRANSFERRED TO A NEW CONFORMING LOCATION WHEN THERE ARE ELEVEN (11) OR FEWER PWVL LICENSES OUTSTANDING; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

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

**Section 1.** Section 27-52 of the Town of Fort Myers Beach Land Development Code is hereby amended as follows:

**Sec. 27-52. PWVL and PAL applications; regulatory fees.**

- (a) Application for a PWVL or PAL license shall be made to the town manager on a form provided by the town.
- (b) Information to be provided by the applicant shall include, at a minimum:
  - (1) **Business location:**
    - a. The STRAP number and street address from which the personal watercraft or parasailing activity business will operate;
    - b. If the applicant is not the owner of the property from which the business will be operated, the applicant shall submit a notarized letter of authorization from the owner of the property to the applicant.
  - (2) **Ownership information:**
    - a. Business owner's name, home address, local address, telephone number;
    - b. Manager's name, home address, local address, telephone number;
    - c. Mailing address at which notice of any town information pertinent to any personal watercraft rental or parasailing activity business shall be considered received and binding upon the applicant or PWVL or PAL holder, on the fifth day after first-class mail is posted to said address;
    - d. State sales tax number.
  - (3) **Business equipment information:**
    - a. The number of, and a description of, the vessels to be used by the business, including model, year, manufacturer, color, and Florida vessel registration number(s).
    - b. For PWVL applications only, a description of the chase vessel(s) to be kept at the place of business as well as the Florida vessel registration number(s).
  - (4) **Proof of insurance:** Proof of required insurance.
  - (5) **Fire report:**

- a. For PWVL applications: Prior to annual license renewal, the fire marshal will submit evidence of a fire safety inspection to the town.
- b. For PAL applications: Proof of compliance with fire regulations.
- (6) **CPR certification:** For PWVL applications only, proof of CPR certification of sufficient persons so that there will be one in attendance at all times of operation.
- (7) **Annual fee:** Pays an annual fee of:
  - a. \$60 for town administrative processing costs; and
  - b. \$30 for the right to offer for business, as herein provided, the rental of personal watercraft or the right to operate a parasailing activity business; and
  - c. \$80 for town enforcement costs.

(c) **Misrepresentation.** Applicants who misrepresent information provided under this section shall not be issued a PWVL or PAL, or if issued, may suffer suspension or revocation of the PWVL or PAL.

(d) **Cap on number of licenses.** PWVLs and PALs and license renewals shall be issued on an annual basis coinciding with the town's fiscal year, October 1 through September 30.

- (1) There shall be no more than ~~ten~~ eleven (101) PWVL licenses outstanding at any point in time.
- (2) There shall be no more than seven (7) PAL licenses outstanding at any point in time.
- (3) See § 27-55 for regulations on transfers of existing PWVLs and PALs.

**Section 2.** Section 27-55 of the Town of Fort Myers Beach Land Development Code is hereby amended as follows:

**Sec. 27-55. Transferability of PWVL and PAL licenses.**

(a) **Transferability to a new owner.** Provided that this chapter has been complied with, the PWVL or PAL is transferable to a new owner if:

- (1) The location of the business complies with the minimum separation requirements of this chapter, or is "grandfathered in" under subsection (c) or (d) below; and
- (2) The new business owner files an amended application with the town providing the information required in this chapter.

(b) **Transferability to a new location.** Provided that this chapter has been complied with, the PWVL or PAL is transferable to a new location if:

- (1) The new location of the business complies with the minimum separation requirements of this chapter;
- (2) The business owner files an amended application with the town providing the information required in this chapter;
- (3) Transfer of a PAL to a new conforming location is only allowed when there are seven (7) or fewer PAL licenses outstanding.

(4) Transfer of PWVL to a new conforming location is only allowed when there are ~~ten~~ eleven (101) or fewer PWVL licenses outstanding.

(c) **Nonconforming PWVLs.** Personal watercraft vendors who established or commenced business at a location on or before December 2, 1996, that does not comply with the location requirements set forth in this chapter may continue to operate as a nonconforming use after December 2, 1996, unless terminated for failure to obtain a PWVL or renewal as required by this chapter, voluntary discontinuation of business for a period of thirty (30) days or more, or revocation of the PWVL.

(d) **Nonconforming PALs.** Parasail operators who established or commenced business at a location on or before January 21, 1997, that does not comply with the location requirements set forth in this chapter, may continue to operate as a nonconforming use after January 21, 1997, unless terminated for failure to obtain a PAL or renewal as required by this chapter, voluntary discontinuation of business for a period of thirty (30) days or more, or revocation of the PAL.

**Section 3. Severability.** If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

**Section 4. Effective Date.** This ordinance shall take effect immediately upon adoption by the Town Council.

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

Anita Cereceda, Mayor	AYE	Dan Andre, Vice Mayor	AYE
Alan Mandel	AYE	Rexann Hosafros	AYE
Summer Stockton	AYE		

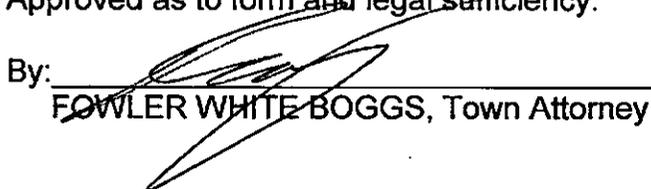
DULY PASSED AND ADOPTED THIS 5th DAY OF MAY 2014, BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH

By:   
Anita T. Cereceda, Mayor

ATTEST:

By:   
Michelle D. Mayher, Town Clerk

Approved as to form and legal sufficiency:

By:   
FOWLER WHITE BOGGS, Town Attorney