

*Note: At the public hearing on April 3, 2017, the Motion by Shamp, Second by Gore to adopt as amended, in a roll call vote failed unanimously – 0-5.*

**ORDINANCE 17-04**

**AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE CHAPTER 34 TO CREATE SUPPLEMENTAL REGULATIONS APPLICABLE TO RENTAL OF DESIGNATED SURPLUS PARKING SPACES; PROVIDING FOR A DEFINITION OF “SURPLUS PARKING SPACES”; REQUIREMENT TO OBTAIN A USE PERMIT TO ALLOW RENTAL OF DESIGNATED SURPLUS PARKING SPACES; PROVIDING FOR SEVERABILITY; CONFLICTS OF LAW; CODIFICATION, SCRIVENER’S ERRORS; AND AN EFFECTIVE DATE.**

**WHEREAS**, the Town Council has the authority to enact and amend ordinances and regulations pursuant to the provisions of Laws of Florida Chapter 95-494, Florida Statutes chapters 163 and 166 and its Town Charter section 3.01; and

**WHEREAS**, on January 10, 2017 the Local Planning Agency reviewed the proposed provisions and found they were not inconsistent with the Town’s Comprehensive Plan; and

**WHEREAS**, the Town Council held public hearings concerning the proposed ordinance on March 6, 2017, March 20, 2017 and April 3, 2017; and

**WHEREAS**, the Town Council finds it is appropriate and in the best interest of the citizens and visitors of the Town of Fort Myers Beach to adopt this ordinance.

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

**SECTION ONE: AMENDMENT TO LAND DEVELOPMENT CODE CHAPTER 34**

Town of Fort Myers Beach Land Development Code chapter 34 is amended as set forth below with strike through indicating deleted text and underline indicating additional text.

**CHAPTER 34**

**ARTICLE IV. SUPPLEMENTAL REGULATIONS**

**DIVISION 26. - PARKING**

**Sec. 34-2011. Types of parking facilities.**

Parking facilities in the Town of Fort Myers Beach take a variety of forms, generally classified as follows:

- (1) *Single-purpose parking lots.* Single-purpose parking lots are designed to serve individual businesses, multiple-family buildings, mixed-use buildings, and multiple-occupancy complexes. Single-purpose parking lots are usually located on the same parcel as the use(s) they serve and may include parking spaces under a building or in a parking garage.
  - a. Most single-purpose parking lots are considered by this code to be accessory uses of land (§ 34-1171 of this chapter) and thus can be built to serve any permitted principal use on the same parcel of land.
  - b. Some single-purpose parking lots serve two or more non-abutting parcels, as provided in § 34-2018 of this chapter for joint-use parking lots.
  - c. Surplus parking spaces in some single-purpose parking lots may be rented to the general public during peak periods, as provided in subsection 34-2019(a) of this chapter.

(2)-(3) *No change.*

#### **Sec. 34-2012. Definitions.**

For purpose of this division only, certain words or phrases are defined as follows:

*Surplus parking spaces* means additional parking spaces above and beyond those spaces required by the Land Development Code to support specific land uses (see § 34-2020 for required parking spaces by land use).

*No change to the balance of this section.*

#### **Sec. 34-2017. - Parking lot surfaces.**

- (a) *No change.*
- (b) *Low turnover parking lots.* Due to the low volume of vehicle turnover in this type lot, alternative unpaved parking lot surfaces may parking lot can be provided for some or all of the required parking spaces for two or more unrelated businesses also be permitted provided that the areas are adequately drained and continuously maintained in a dust-free manner.

(1)-(4) *No change.*

(c) *Reduced surfacing standards.*

- (1) The director is authorized to permit portions of high turnover parking lots (including parking lot aisles), to meet the surfacing standards for low turnover parking lots (subsection §34-2017(b)(1), above) when the reduced surfacing standard will be used in those portions of the parking lot expected to receive the lightest usage, such as overflow or employee parking areas.

- (2) This subsection ~~must~~ may not be construed ~~inconsistently~~ in a manner inconsistent with the Americans with Disabilities Act (ADA) of 1990.
- (d) *No change.*

**Sec. 34-2019. - Other use of parking lots.**

(a) Surplus Pparking spaces that are not in daily use and are located in parking lots having ten or more delineated parking spaces and meeting the other requirements of this division may be rented to the general public ~~during peak periods~~ provided that a use permit has been obtained. The use permit application must include:

- (1) A survey of the subject property;
- (2) An analysis of the required parking spaces utilizing § 34-2020 for required parking spaces by land use;
- (3) A parking plan that includes the total number of parking spaces, the number of required parking spaces to accommodate existing uses of the subject parcel, and the number of surplus parking spaces provided;
- (4) Any signage advertising surplus parking spaces must be in conformance with the requirements of chapter 30.
- (5) This section will “sunset” and be of no further effect after (insert date one year from enactment date) unless reenacted by Town Council prior to that date.
- (6) Operators of parking lots with surplus parking spaces must purchase parking lot signage from the Town.

(b)-(c) *No change.*

**SECTION 2: SEVERABILITY.**

If any one of the provisions of this ordinance should be held contrary to any express provision of law or contrary to the policy of express law, although not expressly prohibited, or against public policy, or for any reason whatsoever beheld invalid, then such provision will be null and void and will be deemed separate from the remaining provisions of this ordinance, and in no way affect the validity of all other provisions of this ordinance.

**SECTION 3: CONFLICTS OF LAW.**

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 requirements will apply.

**SECTION 4: CODIFICATION AND SCRIVENER'S ERRORS.**

The Town Council intends that this ordinance will be made part of the Fort Myers beach Code of ordinances; and that sections of this ordinance can be renumbered or relettered and the word "ordinance" can be changed to "section", "article" or some other appropriate word or phrase to accomplish codification, and regardless of whether this ordinance is ever codified, the ordinance can be renumbered or relettered and typographical errors that do not affect the intent can be corrected with the authorization of the Town Manager or designee, without the need for a public hearing.

**SECTION 5: EFFECTIVE DATE.**

This ordinance becomes effective immediately upon its adoption.

**THE FOREGOING ORDINANCE** was enacted by the Town Council upon a motion by Council Member \_\_\_\_\_ and seconded by Council Member \_\_\_\_\_ and, upon being put to a roll call vote, the result was as follows:

Dennis Boback \_\_\_\_\_  
Tracey Gore \_\_\_\_\_  
Bruce Butcher \_\_\_\_\_  
Anita Cereceda \_\_\_\_\_  
Joanne Shamp \_\_\_\_\_

**DULY PASSED AND ENACTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

**ATTEST:**

**TOWN OF FORT MYERS BEACH**

By: \_\_\_\_\_  
Michelle D. Mayher, Town Clerk

By: \_\_\_\_\_  
Dennis C. Boback, Mayor

Approved as to form by:

By: \_\_\_\_\_  
Peterson Law Group, Town Attorney

**Note: At the public hearing on April 3, 2017, the Motion by Shamp, Second by Gore to adopt as amended, in a roll call vote failed unanimously – 0-5.**