

**1. Requested Motion:**

**Meeting Date:** Aug 5, 2013

Motion to adopt Ordinance 13-05, Mandatory Recycling for Commercial Establishments.

**Why the action is necessary:**

Ordinances must be approved by a vote of the Town Council.

**What the action accomplishes:**

**2. Agenda:**

- Consent
- Administrative
- Public Hearing

**3. Requirement/Purpose:**

- Resolution
- Ordinance
- Other

**4. Submitter of Information:**

- Council
- Town Staff
- Town Attorney

**5. Background:**

Mandatory Recycling for businesses was a work session topic on February 7, 2011, and the council moved it to a regular meeting on February 22, 2011. At the Feb 22, 2011 council meeting, legal counsel was directed to bring forward a draft ordinance. Further discussion was held at a council work session on May 20, 2013. A revised draft ordinance was introduced at the June 17, 2013 Town Council meeting and a public hearing was set for August 5, 2013.

**6. Alternative Action:**

**7. Management Recommendations:**

**8. Recommended Approval:**

Town Manager	Town Attorney	Finance Director	Public Works Director	Community Development Director	Parks & Recreation Director	Town Clerk
						

**9. Council Action:**

- Approved
- Denied
- Deferred
- Other

ORDINANCE NO.13-05

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, ESTABLISHING ARTICLE IV IN CHAPTER 20 OF THE TOWN OF FORT MYERS BEACH CODE OF ORDINANCES, TO BE ENTITLED "MANDATORY RECYCLING FOR COMMERCIAL ESTABLISHMENTS;" CREATING SECTION 20-60, "DEFINITIONS;" SECTION 20-61 "RECYCLING MANDATORY FOR COMMERCIAL ESTABLISHMENTS;" SECTION 20-62, "PROOF OF PARTICIPATION IN RECYCLING PROGRAM;" AND SECTION 20-63, "PENALTIES;" PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

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

Section 1. Article IV in Chapter 20 of the Town of Fort Myers Beach Code of Ordinances is hereby created as follows:

**ARTICLE IV. MANDATORY RECYCLING FOR COMMERCIAL ESTABLISHMENTS**

**Sec. 20-60. - Definitions.**

For the purpose of this article, the following terms, phrases, words and their derivations shall have the meaning given herein:

Commercial Establishment means a property or properties zoned or used for commercial or industrial uses, or used by an entity exempt from taxation under section 501(c)(3) of the Internal Revenue Code, and excludes property or properties zoned or used for single-family residential or multifamily residential uses.

Recovered materials means metal, paper, glass, plastic, textile, or rubber materials that have know recycling potential, can be feasibly recycled, and have been diverted and source separated or have been removed from the solid waste stream for sale, use, or reuse as raw materials, whether or not the materials require subsequent processing or separation from each other, but the term does not include materials destined for any use that constitutes disposal.

Recovered materials dealer means a person or entity certified by the Florida Department of Environmental Protection to handle, purchase, receive, recover, sell, or is an end user of recovered materials.

Recycling means any process by which solid waste, or materials that would otherwise become solid waste, are collected, separated, or processed and reused or returned to use in the form of raw materials or products.

Recyclable material means those materials that are capable of being recycled and that would otherwise be processed or disposed of as solid waste.

**Sec. 20-61. – Recycling Mandatory for Commercial Establishments.**

Effective [insert date], all commercial establishments located in the Town of Fort Myers Beach are required to recycle a minimum of one type of recyclable material that the business generates. This primary recyclable material shall be the recyclable material that comprises the

largest portion of the commercial establishment's waste stream. A commercial establishment shall, at its sole option, either contract with the County franchise hauler for collection of the recyclable material or the commercial establishment may sell or otherwise convey such recyclable material to any properly certified recovered materials dealer.

**Sec. 20-62. – Proof of Participation in Recycling Program.**

All commercial establishments located in the Town of Fort Myers Beach shall, upon request by the Town, produce proof of a valid and current contract with either the County's franchise hauler or a certified recovered materials dealer, or with copies of receipts for delivery of recyclable material to a certified recovered materials dealer.

**Sec. 20-63. – Penalties.**

Except as otherwise provided, any person violating or failing to comply with any of the provisions of this division shall be punished as provided by section 1-12 of this Code of Ordinances.

Section 2. 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 3. 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 \_\_\_\_\_ and seconded by \_\_\_\_\_ and upon being put to a vote, the result was as follows:

Alan Mandel, Mayor                      Joe Kosinski, Vice Mayor  
Bob Raymond                              Jo List  
Dan Andre

DULY PASSED AND ADOPTED THIS \_\_\_\_ DAY OF \_\_\_\_\_ 2013, BY THE  
TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH

ATTEST:

By: \_\_\_\_\_  
Alan Mandel, Mayor

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

Approved as to form and legal sufficiency:

By: \_\_\_\_\_  
FOWLER WHITE BOGGS, Town Attorney