

ORDINANCE No. 97-21

AN ORDINANCE AMENDING THE TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE, PROVIDING AUTHORITY; AMENDMENTS TO 34-202. GENERAL SUBMITTAL REQUIREMENTS FOR APPLICATIONS REQUIRING PUBLIC HEARING. SUBPARAGRAPH (B) OWNER-INITIATED APPLICATIONS; AMENDMENTS TO SEC. 34-841. PURPOSE AND INTENT. SUB PARAGRAPH (B) C-1A, C-1 AND C-2 COMMERCIAL DISTRICTS; AMENDMENTS TO SEC. 34-1141. PURPOSE AND INTENT. SUB PARAGRAPH (A) PURPOSE AND AFFECTED AREA; AMENDMENTS TO SEC. 34-1145. MODIFIED DEVELOPMENT REGULATIONS SUB PARAGRAPH (C) PERMITTED USES TABLE 1, PARKING LOT; AMENDMENTS TO SEC. 34-1145. MODIFIED DEVELOPMENT REGULATIONS SUB PARAGRAPH (C) PERMITTED USES FOOTNOTES TO TABLE 1; AMENDMENTS TO SEC. 34-1145. MODIFIED DEVELOPMENT REGULATIONS SUB PARAGRAPH (D) PROPERTY DEVELOPMENT REGULATIONS; AMENDMENTS TO SEC. 34-1145. MODIFIED DEVELOPMENT REGULATIONS SUB PARAGRAPH (E) OFF-STREET PARKING.(3) REQUIRED NUMBER OF SPACES; AMENDMENTS TO SEC. 34-1145. MODIFIED DEVELOPMENT REGULATIONS SUB PARAGRAPH (E) OFF-STREET PARKING.(4) JOINT USE OF OFF-STREET-PARKING LOTS. (D); AMENDMENTS TO SEC. 34-1145. MODIFIED DEVELOPMENT REGULATIONS SUB PARAGRAPH (G) SANDWICH SIGNS; AMENDMENTS TO SEC. 34-1145. MODIFIED DEVELOPMENT REGULATIONS SUB PARAGRAPH (H) DEVELOPMENT STANDARDS; AMENDMENTS TO SEC. 34-1145. MODIFIED DEVELOPMENT REGULATIONS SUB PARAGRAPH (J) BUILDING REGULATIONS. (4); AMENDMENTS TO SEC. 34-1177. ACCESSORY APARTMENTS NOT REQUIRING OWNER-OCCUPANCY PARAGRAPH (B) APPLICABILITY; AMENDMENTS TO SEC. 34-1178. GUEST HOUSES; AMENDMENTS TO SEC. 34-1264. SALE OR SERVICE FOR ON-PREMISES CONSUMPTION. (B) LOCATION; PARKING; ADDING SEC. 34-1264. SALE OR SERVICE FOR ON-PREMISES CONSUMPTION. (K) ALCOHOLIC BEVERAGES IN RESTAURANTS; AMENDMENTS TO SEC. 34-1802. PROPERTY DEVELOPMENT REGULATIONS; AMENDMENTS TO SEC. 34-2020. REQUIRED [PARKING] SPACES; AMENDMENTS TO SEC. 34-2022. TEMPORARY PARKING LOTS; PARAGRAPH (B) SUB-PARAGRAPH (17); PROVIDING SEVERABILITY; EFFECT OF ORDINANCE AND EFFECTIVE DATE.

IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

SECTION 1. Authority. This Ordinance is enacted pursuant to the provisions of Chapter 95-494, Laws of Florida, Chapter 166, Florida Statutes, and other applicable provisions of law.

SECTION 2. Amendments to 34-202. General submittal requirements for applications requiring public hearing. subparagraph (b) Owner-initiated applications.

34-202. General submittal requirements for applications requiring public hearing. subparagraph (b) Owner-initiated applications.is amended to read as follows:

(b) *Owner-initiated applications. Every application involving changes in zoning district boundaries, or a request for special exception, variance or special permit, initiated by a landowner, or his authorized agent, for his own property, shall include the following:*

- (1) *Authority. [no change]*
- (2) *Legal description. [no change]*
- (3) *Property owners list. The application shall include a complete list of all property owners, and their mailing addresses, for all property within 375 feet of the perimeter of the subject parcel or the portion thereof that is the subject of the request. This list shall include the owners of all individual condominium units within the 375-foot perimeter, plus the managing entity of any timeshare properties. For the purpose of this subsection, names and addresses of property owners, condominium owners, and timeshare managers will be deemed to be those appearing on the latest tax rolls of the county. The applicant shall be responsible for the accuracy of such list. This list is for the purpose of mailing notice to property owners within 375 feet of the property described. The notice is a courtesy only and is not jurisdictional. Accordingly, failure to mail or to timely mail such notice or failure of any affected property owner to receive mailed notice will not constitute a defect in notice or bar the public hearing as scheduled.*
- (4) *Property owners map. [no change]*
- (5) *Deed restrictions. [no change]*
- (6) *Land use classification. [no change]*
- (7) *Affidavit regarding proposed use. [no change]*
- (8) ~~*Hazardous materials emergency plan for port facilities. Any applicant seeking a rezoning for a private port facility must submit a hazardous materials emergency plan, which will be subject to the approval of the county divisions of emergency management, water resources and planning, and of the appropriate fire district. The plan must provide for annual monitoring for capacity and effectiveness of implementation. At the minimum, the plan must comply with the spill prevention control and countermeasure plan (SPCC) called for in the federal oil pollution prevention regulations, 40 CFR 112, as amended.*~~
- (9) (8) *Additional material. Additional material, depending on the specific type of action requested, shall be required as set forth in section 34-203(a) through (g). In addition, all applications for PD planned development zoning, variances, special exceptions, and special permits must be accompanied by a sketch or sketches that indicate the physical character of the proposed building(s), and in the case of variances, the difference between the proposal and the configuration that would be allowed without the variance.*

SECTION 3. Amendments to Sec. 34-841. Purpose and intent. sub paragraph (b) C-1A, C-1 and C-2 commercial districts.

Sec. 34-841. Purpose and intent. sub paragraph (b) C-1A, C-1 and C-2 commercial districts. is amended to read as follows:

*(b) C-1A, C-1 and C-2 commercial districts. The purpose and intent of the C-1A, C-1 and C-2 districts is to regulate the continuance of commercial and select residential land uses and structures lawfully existing in the C-1A, C-1 and C-2 districts as of August 1, 1986, and as originally permitted by the county zoning regulations of 1962, as amended, and 1978, as amended, respectively. Subsequent to February 4, 1978, no land or water shall be rezoned into the C-1A, C-1 or C-2 districts. In no case shall new development be permitted in any existing C-1A, C-1 or C-2 district which is not consistent with the Lee Plan. Subsequent to [date of amendment adoption], as an interim measure during the formulation and implementation of a new comprehensive plan for the town of Fort Myers Beach, development orders within the town limits on private property zoned C-1, C-1A or C-2 must be preceded by the rezoning of said property to one of the PD planned development districts, except for following types of development:*

(1) Development or redevelopment pursuant to the Fort Myers Beach Redevelopment Overlay District (see Section 34-1145), provided all activities fully comply with the overlay district, including all provisions otherwise considered optional.

(2) Development that qualifies for the "limited review" process under Section 10-174 of this code.

SECTION 4. Amendments to Sec. 34-1141. Purpose and intent. Sub paragraph (a) Purpose and affected area

Sec. 34-1141. Purpose and intent. Sub paragraph (a) Purpose and affected area is amended to read as follows:

*(a) Purpose and affected area. This redevelopment overlay district is designed to stimulate the revitalization of the original commercial district on Estero Island. This district is known as the Downtown of Fort Myers Beach and is described in a set of maps attached hereto and incorporated herein by reference. One of these maps, entitled Proposed Land Use by District, shows four distinct districts: (1) Old San Carlos; (2) Time Square; (3) Crescent Street; and (4) Estero/Beachfront. Some regulations herein apply only to one or more of these districts, which are referred to by these names (for example, permitted uses in Table 1). In other cases the context indicates that special regulations only apply to parcels directly fronting on one of these streets (for example, street setbacks in Table 2).*

SECTION 5. Amendments to Sec. 34-1145. Modified development regulations sub paragraph (c) Permitted uses TABLE 1, Parking lot.

Sec. 34-1145. Modified development regulations sub paragraph (c) Permitted uses TABLE 1, Parking lot is amended to read as follows:

<i>LAND USES</i>	<i>SPECIAL NOTES</i>	<i>OLD SAN CARLOS DR.</i>	<i>TIMES SQ.</i>	<i>CRESCENT</i>	<i>ESTERO</i>
<i>Parking lot</i>	<i>34-3049</i>				<i>BEACH</i>
<i>Accessory</i>		<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>
<i>Commercial</i>		<i>P SE</i>	<i>SE</i>	<i>-</i>	<i>SE</i>
<i>Garage, public parking</i>		<i>P SE</i>	<i>SE</i>	<i>-</i>	<i>SE</i>
<i>Temporary</i>	<i>34-2022</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>

SECTION 6. Amendments to Sec. 34-1145. Modified development regulations sub paragraph (c) Permitted uses footnotes to TABLE 1.

Sec. 34-1145. Modified development regulations sub paragraph (c) Permitted uses footnotes to TABLE 1 are amended to read as follows:

*Original notes from Table 34-934: [reprinted here only when referenced above]  
Notes applying to the Fort Myers Beach Downtown District only:*

SECTION 7. Amendments to Sec. 34-1145. Modified development regulations sub paragraph (d) Property development regulations.

Sec. 34-1145. Modified development regulations sub paragraph (d) Property development regulations is amended to read as follows:

*(d) Property development regulations. In the same manner as for Table 1, new property development regulations for the Fort Myers Beach Downtown District are shown in Table 2.*

The terminology and notes used in this table are the same as contained in Table 34-844 of the Land Development Code, except as specifically noted.

TABLE 2

<b>DIMENSIONAL REGULATIONS</b>	<b>SPECIAL NOTES OR REGULATIONS</b>	<b>C-1 ZONING DISTRICT</b>	<b>FORT MYERS BEACH DOWNTOWN DISTRICT (ALL PORTIONS)</b>
<i>Maximum density</i>	34-2142, 2221 & 22	Note (1)	Note (1)
<i>Minimum lot area and dimensions:</i>			
<i>Minimum lot size:</i>			
<i>Residential uses (square feet):</i>			
<i>First two units in same building</i>		7,500	7,500 (a)
<i>Each add'l unit in same building</i>		3,000	3,000
<i>Nonresidential uses (square feet):</i>			
<i>Corner lot</i>		7,500	5,000
<i>Interior lot</i>		7,500	2,500
<i>Corner lot</i>		75	25
<i>Interior lot</i>		100	100
<i>Minimum lot width (feet)</i>			
<i>Minimum lot depth (feet)</i>			
<i>Minimum setbacks:</i>	34-2191 et seq.		
<i>Street (feet)</i>	Note (3)	Variable according to the functional classification of the street or road (see Section 34-2192)	All buildings shall abut the "build-to" line as defined in Appendix I (a), (b), (c)
<i>Side yard (feet)</i>	Note (5)	15	0 (d), (e)
<i>Rear yard (feet)</i>		25	25 (d)
<i>Water body (feet):</i>			
<i>Gulf of Mexico</i>		N/A	N/A
<i>Other (feet)</i>	34-2194(a), (c)	25	25
<i>Maximum height (feet)</i>	34-2171 et seq.	40	40 (f)
<i>Maximum lot coverage (percent of total lot area)</i>		40%	60% (g), (h), (i)

Original notes from Table 34-844 934: [reprinted here only when referenced above]

- (1) Residential development shall not exceed that density permitted by the Lee Plan for the land use category in which the property is located.
- (3) Modifications to required setbacks for arterial or collector streets, or for solar or wind energy purposes, are permitted only by special permit. See section 34-2191 et seq.
- (5) No side yard setback is required from common lot line for two-family attached or townhouse.

Notes applying to the Fort Myers Beach Downtown District only:

- (a) Along Crescent Street only: Maximum bonus density allowed for multifamily residential use with the additional density for affordable housing only; multifamily lot sizes may be as small as 5,000 square feet.
- (b) No setback to right-of-way allowed along Old San Carlos, Crescent Street, and Estero Boulevard south to Miramar Avenue; standard front setbacks apply at all other locations; ground-level sidewalks or patios along Old San Carlos and Estero may be recessed setback may be covered by a roof or built as an arcade with building above.
- (c) Existing structures in Times Square may be expanded at grade to the street right-of-ways without providing additional parking. Expansion above the ground level requires parking to code.
- (d) Along Old San Carlos, 30 feet from front setback at grade, 50 feet from front setback above grade.
- (e) Along Crescent Street, minimum 5 feet one side with 50% lot width total setback required.
- (f) Above Base Flood Elevation.
- (g) Additional height allowance for greater setbacks (sec. 34-2174 (a))
- (h) Refer to special provisions for towers
- (g) (i) Parking garage exempt along Old San Carlos
- (h) (j) Governed by setback requirements along Crescent Street
- (i) 100% lot coverage allowed within Times Square

SECTION 8. Amendments to Sec. 34-1145. Modified development regulations sub paragraph (e) Off-street parking.(3) Required number of spaces.

Sec. 34-1145. Modified development regulations sub paragraph (e) Off-street parking.(3) Required number of spaces is amended to read as follows:

(e) **Off-street parking.**

(3) *Required number of parking spaces. The number of off-street parking spaces required for any given land use by Section 34-2020 shall be reduced by one-third. Area used for outdoor restaurant seating shall not be counted in the total floor area when calculating parking requirements.*

SECTION 9. Amendments to Sec. 34-1145. Modified development regulations sub paragraph (e) Off-street parking.(4) Joint use of off-street parking lots. (d)

Sec. 34-1145. Modified development regulations sub paragraph (e) Off-street parking.(4) Joint use of off-street parking lots. (d)-shall be amended to read as follows:

(4) **Joint use of off-street parking lots.**

(d) *Town administrative approval for joint or shared use of off-street parking can be granted only when all users of the shared lot have chosen to be governed by this redevelopment overlay district in accordance with Sections 34-1137 1145 (a) and (b) above. Requests for administrative approval shall include the following: [no change in remainder]*

SECTION 10. Amendments to Sec. 34-1145. Modified development regulations sub paragraph (g) Sandwich signs.

Sec. 34-1145. Modified development regulations sub paragraph (g) Sandwich signs shall be amended to read as follows:

(g) *Sandwich signs. The Town's sign regulations are found in Chapter 30 of the Land Development Code, and additional guidance is provided through the design guidelines discussed in Section 34- 1143 (c) (e) above. [no further changes]*

SECTION 11. Amendments to Sec. 34-1145. Modified development regulations sub paragraph (h) Development standards.

Sec. 34-1145. Modified development regulations sub paragraph (h) Development standards shall be amended to read as follows:

(h) *Development standards. In a similar manner as for Tables 1 and 2, new development standards for the Fort Myers Beach Downtown District are shown in Table 3. The terminology in this table follows that in Chapter 10 of the Land Development Code, except as specifically noted.*

TABLE 3

TYPE OF DEVELOPMENT STANDARD	FOUND WHERE IN LAND DEVELOPMENT CODE	SUBSTANCE OF CURRENT REGULATIONS	FORT MYERS BEACH DOWNTOWN DISTRICT (ALL PORTIONS)
Open space: small developments large developments	10-413(b)	20% 30%	Note (a) Note (a)
Minimum required buffering: Commercial adjoining existing residential development  Commercial adjoining street rights-of-way	10-414(a)	15-foot buffer and 8-foot-high fence, wall or berm	None <u>except at parking lots</u>
	10-415(b)	10-foot-wide landscaped strip	Note (b)
Storm water detention	10-321 et seq.	Required for each individual parcel	See <u>Section 34-1143(b) 5(I) below</u>
Intersection separation	10-285	Arterials: 660 ft. Collectors: 330 ft. Local streets: 125 ft.	<i>Estero Blvd.: note (c)</i> <i>Other streets: note (d)</i>
		Access roads or access ways: 60 ft.	Note (e)

Notes applying to the Fort Myers Beach business district only:

- (a) There is no minimum open space requirement comparable to that required by Section 10-413.
- (b) There is no minimum buffer requirement adjoining rights-of-way comparable to that required by Section 10-414(f).
- (c) Vehicular access to private parking spaces shall be via the side streets (see Section 34-1137 (j) below). ~~No new access points shall be allowed directly to Old San Carlos Drive, and existing access points (other than existing alleys) shall be removed when parking areas are reconfigured to conform to these regulations.~~
- (d) Vehicular access to parking spaces shall be via the side streets wherever possible (see Section 34-1137 (j) below). ~~New access points shall be allowed to streets other than Old San Carlos Drive only where side street access is not shown in the master plan (see Section 34-1135 1143), or where side street access is infeasible or inferior to the circulation pattern shown in the master plan (as determined by the Town Manager).~~

SECTION 12. Amendments to Sec. 34-1145. Modified development regulations sub paragraph (j) Building regulations. (4)

Sec. 34-1145. Modified development regulations sub paragraph (j) Building regulations. (4) is amended to read as follows:

*(4) Awnings and canopies. The installation of awnings and canopies over sidewalks and pedestrian walkways is specifically encouraged (see design guidelines referred to in Section 34-1135(e) 1143(c) above). [no further changes].*

SECTION 13. Amendments to Sec. 34-1177. Accessory apartments not requiring owner-occupancy. Paragraph (b) Applicability

Sec. 34-1177. Accessory apartments not requiring owner-occupancy paragraph (b) Applicability is amended to read as follows:

*(b) Applicability. This section sets forth the requirements for accessory apartments, when subordinate to a single-family detached dwelling unit, with no requirement that the property owner live on the premises. If a property owner lives on the premises, an existing accessory apartment that does not meet the requirements of this section may be legal under the provisions of section 34-1178. The requirements of this section apply to accessory apartments whether they are listed as a permitted use or a use by special exception.*

SECTION 14. Amendments to Sec. 34-1178. Guest houses.

Sec. 34-1178. Guest houses is amended to read as follows:

*Sec. 34-1178. Accessory apartments in owner-occupied homes.*

*(a) Purpose. The purpose of this section is to recognize and legalize certain existing accessory apartments where the immediate presence of a property owner is presumed to mitigate any negative effects that might result from the use or rental of such apartments.*

*(b) Applicability. This section sets forth special requirements for a single accessory apartment in an owner-occupied home. The requirements of this section are applicable in any zoning district that allows residential uses without regard to the zoning district limitations provided in Table 34-694. Nothing in this section authorizes or legalizes any construction that is not allowed by the flood-hazard regulations found in Sec. 6-401 through 6-475 of this code.*

*(c) Definition. For purposes of this section, the term "accessory apartment" means a single living unit, with or without cooking facilities, that is in existence as of [date of amendment adoption]. For such an accessory apartment to remain lawful under this section, the property owner or an immediate family member must be in residence on the premises, or on an immediately adjoining lot, during any period when the apartment is not vacant.*

*(d) Density. An accessory apartment that meets the requirements of this section is not termed a dwelling unit as defined by the Lee Plan.*

*Guest houses:*

*(a) Permitted use. One guest house per residential lot may be permitted in those districts indicating that such use is permitted, provided the regulations set forth in subsection (b) of this section are met.*

*(b) Conditions:*

*(1) A guest house may be permitted only when accessory to a principal single family detached dwelling.*

*(2) The guest house shall comply with all setback requirements for accessory structures.*

*(3) A guest house shall not be used as a yearround dwelling, nor shall it be rented or leased.*

SECTION 15. Amendments to Sec. 34-1264. Sale or service for on-premises consumption. (b) Location; parking.

Sec. 34-1264. Sale or service for on-premises consumption. (b) Location; parking is amended to read as follows:

*(b) Location; parking.*

*(1) Prohibited locations. [no change]*

*(2) Exceptions to location standards. Exceptions to location standards are as follows:*

*a. Bowling alleys (4-COP-SBX license only), provided that: [no change]*

*b. Restaurants groups II, III and IV, provided that:*

*1. The restaurant is in full compliance with state requirements;*

*2. The restaurant serves cooked, full-course meals, prepared daily on the premises; and*

*3. Only a service bar is used and the sale or service of alcoholic beverages is only to patrons being served meals, or, if the restaurant contains a cocktail lounge for patrons waiting to be seated at dining tables, the lounge shall be located that there is no indication from the outside of the structure that the cocktail lounge is within the building; and*

*(4) The other requirements of Sec. 34-1264(k) shall be met.*

*c. Hotels/motels (4-COP-S license only), provided that: [no change]*

*d. Golf course clubhouses (11-C (golf club) license only), provided that: [no change]*

*e. Tennis clubs and indoor racquetball clubs (11-C (tennis and racquetball clubs) license only), provided that [no change]*

*f. Clubs and fraternal or membership organizations (11-C license only), so long as: [no change]*

*(3) Parking. Restaurants providing alcoholic beverages for consumption on the premises must comply with the parking requirements set forth in section 34-2020(2)l. Any bar or cocktail lounge must provide parking in accordance with section 34-2020(2)e. All other uses must meet the parking requirements of the principal use.*

SECTION 16. Adding Sec. 34-1264. Sale or service for on-premises consumption. (k) Alcoholic beverages in restaurants.

Sec. 34-1264. Sale or service for on-premises consumption. (k) Alcoholic beverages in restaurants is added as follows:

*(k) Alcoholic beverages in restaurants. The sale of alcoholic beverages for on-premises consumption in restaurants (see Sec. 34-1264(b)(2)) must conform to the following regulations:*

*(1) The sale of alcoholic beverages must be incidental to the sale of food, and restaurants permitted to serve alcohol shall provide that food service facilities will remain open serving appropriate food items on the menu at all times coincident with the sale of alcoholic beverages.*

*(2) The sale of alcoholic beverages shall be permitted only when it accounts for no more than 49% of the combined gross sales attributable to the sale of food and all beverages during any continuous twelve-month period.*

- (3) Restaurants selling alcoholic beverages shall keep separate books and records reflecting the gross sales of food and nonalcoholic beverages and the gross sales of alcoholic beverages for each month. The failure to keep the books and records required herein shall be a violation of this code.
- (4) The Town Manager or designee may, during normal working hours, request to inspect and audit the books and records of the business from which alcoholic beverages sales are made wholly for the purpose of verifying that the gross sales of alcoholic beverages are no more than 49% of the gross sales of food and all beverages during any continuous twelve-month period. Refusal of an owner or operator of such business to allow said inspection shall be a violation of this code. Should the audit reveal that this requirement is not being met, the Town Manager shall initiate enforcement proceedings for a violation of this code.
- (5) For any restaurant which has been selling alcoholic beverages for less than twelve months, the provisions of this section shall be interpreted and applied with respect to said lesser period of time.
- (6) These regulations may be enforced through the normal code enforcement procedures in Sec. 1-5 of this code. In addition to these procedures, violations of these regulations may be restricted by injunction initiated by the Town of Fort Myers Beach, by any citizen thereof, or by any person affected by the violation of such regulations.

SECTION 17. Amendments to Sec. 34-1802. Property development regulations-

Sec. 34-1802. Property development regulations is amended to read as follows:

*Sec. 34-1802. Property development regulations.*

*Property development regulations for uses subject to this division are as follows:*

	<u>Business</u>	<u>Efficiency</u>
(1) <i>Minimum lot dimensions</i>		
a. <i>Area</i>	<i>2 acres</i>	<i>20,000 square feet</i>
b. <i>Lot width</i>	<i>150 feet</i>	<i>100 feet</i>
c. <i>Lot depth</i>	<i>200 feet</i>	<i>100 feet</i>
(2) <i>Setbacks:</i>		
a. <i>Street</i>	<i>In accordance with section 34-2192</i>	
b. <i>Water body</i>	<i>In accordance with section 34-2194</i>	
c. <i>Side and rear yards</i>	<i>20 feet for buildings up to 35 feet in height, plus one-half foot for every one foot in excess of 35 feet</i>	
(3) <i>Parking:</i>		
a. <i>Spaces per rental unit</i>	<i>1</i>	<i>1.5</i>
b. <i>Ancillary uses located in separate buildings and available to non-guests must meet the requirements of division 26 of this article.</i>		
c. <i>Where lock-off accommodations (df) are provided, each "keyed room" will be calculated as a separate unit.</i>		
d. <i>Where a development proposes to have both types of rental units, the number of parking spaces will be prorated.</i>		
(4) <i>Rental units permitted:</i>		
a. <i>Density multiplier for hotel/motel rental units (compared to dwelling units allowed under the Lee Plan future land use map) categories that have maximum standard density limits:</i>	<i>3.0 1.0 units equal one dwelling unit</i>	<i>2.0 1.0 units equal one dwelling unit</i>
a. <i>Except as provided below, in categories which do not have density limits, the number of permitted hotel/motel rental units will be determined by design and compliance with all applicable property development regulations including open space, setbacks, and height restrictions.</i>		
c. <i>Any proposed hotel/motel or expansion which will result in contain more than 200-50 rental units or which will exceed the equivalency factors in (4)a. when divided by the Lee Plan maximum standard density for the property in question will be permitted only as a planned development.</i>		

c.

d. A hotel/motel development submitted for approval as a planned development may exceed the equivalency factors in (4)a., ~~without the need for a~~ if approved through the deviation process, provided all other aspects of the development (height, traffic, intensity of use, etc.) are found to be compatible with the surrounding area.

d.

e. Where a development proposes to have both types of rental units, the number of units will be prorated.

(5) Minimum floor area per unit	120 square feet	120 square feet
(6) Maximum floor area per unit	350 square feet	550 square feet

SECTION 18. Amendments to Sec. 34-2020. Required [parking] spaces-

Amendments to Sec. 34-2020. Required [parking] spaces are as follows:

Sec. 34-2020. Required [parking] spaces.

All uses permitted under this chapter shall be subject to the following minimum requirements:

- (1) Dwelling, housing and living units. [no change]
- (2) Commercial uses.
  - a. Animal clinics. [no change]
  - b. Animal kennels. [no change]
  - c. Automotive repair and service [no change]
  - d. Banks and financial establishments. [no change]
  - e. Bars and cocktail lounges. The minimum requirement is 21 spaces per 1,000 square feet of total floor area. If outdoor seating is provided, an additional one space per four outdoor seats or 50 square feet of outdoor seating area (whichever is greater) must be provided. See also subsection (2)l. of this section, pertaining to restaurants, and subsection (5) of this section.
  - f. Barbershops, beauty shops, etc. [no change]
  - g. Car washes. [no change]
  - h. Drive-up facilities. [no change]
  - i. Funeral homes. [no change]
  - j. Offices, excluding medical. [no change]
  - k. Offices, medical and health care facilities group III. [no change]
  - l. Restaurants/bakeries.
    1. Restaurants/bakeries. When a store such as a bakery provides seating for customers to eat the bakery products made on the premises, the store must provide a minimum of one parking space per table or 50 square feet of seating area (whichever is greater) in addition to the parking required for the bakery.
    2. ~~Restaurants group II. When a restaurant is located within the same building as the principal use, and is clearly provided primarily for the employees and customers of subordinate and incidental to the a permitted principal use, and located on the same premises as the principal use, no additional parking spaces shall be are required. In all other cases, parking shall be as follows: as set forth for restaurants groups I, III and IV.~~
      2. ~~Restaurants groups I, III and IV.~~
        - i. The minimum requirement is 14 spaces per 1,000 square feet of total floor area, plus 14 spaces per 1,000 square feet of all area used for outdoor seating.
        - ii If the restaurant contains a cocktail lounge or bar, the minimum requirement is 14 ~~21~~ spaces per 1,000 square feet of total floor area plus seven additional spaces per 1,000 square feet of shall be provided for the area attributable to the lounge floor area used for the bar or cocktail lounge. If outdoor seating is provided, parking must also be provided for the area used for outdoor seating at these same rates.
      3. ~~Restaurants, fast food. The minimum requirement is 16 spaces per 1,000 square feet of total floor area and any other area used for seating, including outdoor seating~~

*plus one space per four outdoor seats, except as provided for in section 34-2021. See also subsection (2)h. of this section pertaining to drive-up facilities.*

*m. Retail or business establishments, freestanding. [no change]*

*n. Schools and studios, commercial. [no change]*

*(3) Commercial/industrial uses. [no change]*

*(4) Miscellaneous uses. [no change]*

*(5) Combined uses. [no change]*

*(6) Uses not specifically listed. [no change]*

*(7) Bench and pew seating. [no change]*

SECTION 19. Amendments to Sec. 34-2022. Temporary parking lots. Paragraph (b) sub-paragraph (17)

Sec. 34-2022. Temporary parking lots Paragraph (b) sub-paragraph (17) is amended as follows:

*Sec. 34-2022. Temporary parking lots. (b) In other areas of the county, temporary use permits may be issued for temporary parking lots subject to the following:*

*(1) Temporary parking lots shall be allowed, in conjunction with an approved temporary use permit, commencing on ~~November~~ December 15 and continuing until ~~May 31~~ July 15. For the purposes of this subsection, temporary permits for temporary parking lots may be issued for all or part of such time period and shall not be limited to 30 days as set forth in section 34-3041(d).*

*(17) a. Where a temporary parking lot abuts residentially zoned or used property, that portion of the parking lot shall be buffered by a continuous visual screen with a minimum opacity of 75 percent and a minimum height of four feet. The visual screen may be located up to one foot from the right-of-way or street easement line. The Town Manager may require more extensive screening if the height, character, and location of the screen does not or may not adequately protect the abutting property from excessive impacts from the temporary parking lot. Additional screening as requested by the Town Manager must be installed within 30 days of written notice to the property owner or parking lot operator, or the temporary use permit will be null and void.*

*b. At intersections of parking lot entrances or exits with a street right-of-way or easement, no obstruction shall be planted or erected which materially obstructs the driver's view of approaching traffic or pedestrians.*

*c. Temporary parking lot signs must comply with requirements for special occasion signs in Section 30-151, except that the signs may remain in use for the duration of the temporary use permit. These signs must be created and displayed in a professional manner. The Town Manager may require the removal of any signs that do not comply with these standards, or which remain visible after the expiration of the temporary use permit.*

SECTION 20. 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 shall for any reason whatsoever be held invalid, then such provision shall be null and void and shall 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 21. Effect of Ordinance. The provisions of this Ordinance shall be deemed cumulative and supplemental and shall have no legal effect except as expressly provided. This

ordinance shall not apply to active development orders issued prior to incorporation or by the Town Council prior to the effective date.

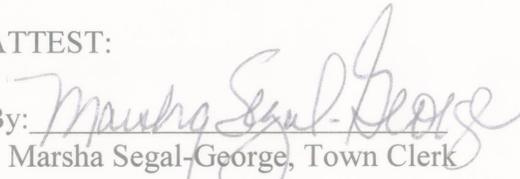
SECTION 22. Effective Date. This ordinance shall become effective immediately upon its adoption.

The foregoing ordinance was enacted by the Town Council upon a motion by Council Member FitzSimons and seconded by Council Member Murphy and, upon being put to a vote, the result was as follows:

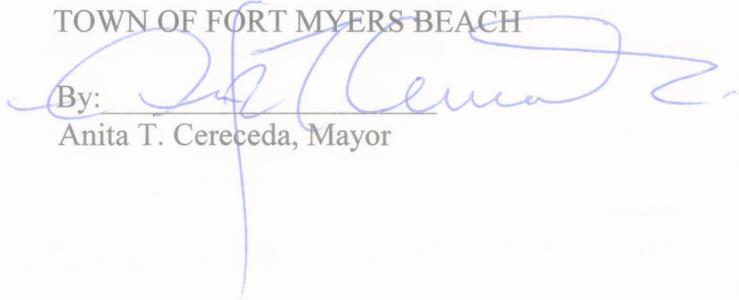
Anita T. Cereceda	<u>aye</u>
Ted FitzSimons	<u>aye</u>
William (Rusty) Isler	<u>aye</u>
Garr Reynolds	<u>aye</u>
Ray Murphy	<u>aye</u>

DULY PASSED AND ENACTED this 15<sup>th</sup> day of December, 1997.

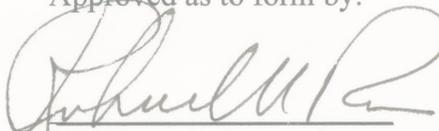
ATTEST:

By:   
Marsha Segal-George, Town Clerk

TOWN OF FORT MYERS BEACH

By:   
Anita T. Cereceda, Mayor

Approved as to form by:

  
Richard V.S. Roosa, Town Attorney