

**RESOLUTION OF THE LOCAL PLANNING AGENCY OF  
THE TOWN OF FORT MYERS BEACH FLORIDA  
RESOLUTION NUMBER 2017-001  
AMENDMENTS TO SURPLUS PARKING REGULATIONS IN  
LAND DEVELOPMENT CODE, CHAPTER 34**

**WHEREAS**, the existence of the Local Planning Agency (LPA) is mandated by Florida Statutes Section 163.3174; and

**WHEREAS**, the Local Planning Agency (LPA) is statutorily responsible under Chapter 163, Florida Statutes, and the Town of Fort Myers Land Development Code (LDC) Section 34-120 for the review of proposed land development regulations, land development codes, or amendments thereto, and for making recommendations to the Town Council with regard thereto and performing such other reviews as are requested by the Town Council; and

**WHEREAS**, following proper notice and as required under the LDC, the LPA conducted a public hearing on January 10, 2017 to consider a proposed Town Ordinance amending certain sections of the LDC, which is attached hereto as *Exhibit A* and is hereby incorporated by reference; and

**WHEREAS**, the aforesaid Ordinance, if passed, would amend regulations relating to rental of surplus parking spaces, as is more fully set forth in the proposed Ordinance; and

NOW THEREFORE BE IT RESOLVED BY THE LOCAL PLANNING AGENCY, that the LPA recommends that Town Council **APPROVE** and adopt the proposed Town Ordinance amending Division 26, Parking, eliminating proposed sections 34-2019(a)(1) and (4).

**PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW:**

1. The proposed ordinance is in the best interest of the health, safety and welfare of the citizens, residents, visitors, and business owners of the Town of Fort Myers Beach and the LPA hereby recommends that the Town Council adopt the proposed ordinance with changes as noted above and in Exhibit A.

2. The Proposed ordinance is not inconsistent with the Town of Fort Myers Beach Comprehensive Plan.

The foregoing Resolution was adopted by the LPA upon a motion by LPA Member Katt and seconded by LPA Member Butcher and upon being put to a vote, the result was as follows:

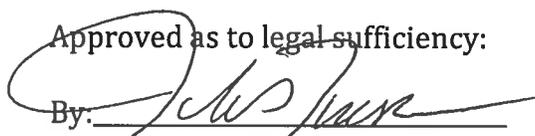
Hank Zuba, Chair            AYE  
Dan Hendrickson, Member   AYE  
Megan Heil, Member        AYE  
Scott Safford, Member      AYE

Bruce Butcher, Vice Chair   AYE  
Suzanne Katt, Member       AYE  
Jane Plummer, Member      AYE

DULY PASSED AND ADOPTED THIS **14th** day of **February, 2017**

Local Planning Agency of the Town of Fort Myers Beach

By:   
Hank Zuba, Chair

Approved as to legal sufficiency:  
By:   
LPA Attorney

ATTEST:  
By:   
Michelle Mayher  
Town Clerk

**LPA Resolution Number 2017-001**

**Exhibit A.**

**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 September 6, 2016 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 October 3, 2016 and \_\_\_\_\_; 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. Designated 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) on a specific parcel of land. The surplus parking spaces must be part of already established parking spaces on the individual property.

*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) Designated 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 designated surplus parking spaces provided;~~
  - ~~(4) The parking plan must include the location of the designated surplus parking spaces and the methodology (such as parking block, signage, or pavement markings such as paint) of delineating the surplus parking spaces;~~
  - ~~(5) Any signage advertising designated surplus parking spaces must be in conformance with the requirements of chapter 30.~~
- (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 vote, the result was as follows:

Dennis Boback \_\_\_\_\_  
Joanne Shamp \_\_\_\_\_  
Tracey Gore \_\_\_\_\_  
Rexann Hosafros \_\_\_\_\_  
Anita Cereceda \_\_\_\_\_

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

**ATTEST:**

**TOWN OF FORT MYERS BEACH**

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

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

Approved as to form by:

By: \_\_\_\_\_  
Town Attorney