

DECLARATION OF EMERGENCY REGULATIONS No. 5 AMENDING DECLARATION OF EMERGENCY REGULATIONS No. 1

(COVID-19 State of Emergency - April 27, 2020)

WHEREAS, Novel Coronavirus Disease 2019 (COVID-19) is a severe acute respiratory illness that can spread among humans through respiratory transmission and other potential methods, and presents symptoms similar to those of influenza;

WHEREAS, in December of 2019, a new and substantial outbreak of COVID-19 emerged in Wuhan, China, and has since spread rapidly to 150 countries and territories throughout the World, including the United States, and more specifically Lee County and 30 other counties in the State of Florida;

WHEREAS, on March 11, 2020, the World Health Organization (WHO) declared COVID-19 a pandemic;

WHEREAS, the Centers for Disease Control and Prevention (CDC) is predicting that it is likely that widespread transmission of COVID-19 will also occur in the United States;

WHEREAS, no vaccine or drug is currently available to cure or combat COVID-19;

WHEREAS, the Town of Fort Myers Beach is threatened by COVID-19 because of the ability of the virus to spread rapidly among humans, and COVID-19 thereby constitutes a clear and present threat to the health, safety, and welfare of the residents and visitors of the Town of Fort Myers Beach;

WHEREAS, the CDC has issued guidelines for "community mitigation strategies" to limit the spread of COVID-19, including recommendations for social distancing, which has proven to be an effective method for containing COVID-19;

WHEREAS, according to information from the Center for Disease Control and

Prevention, Public Health Professionals, and the 2010 Federal Census the Town of Fort Myers Beach is an "at-risk" community for severe or critical reactions to COVID-19 infections, and

WHEREAS, the Town of Fort Myers Beach is threatened by COVID-19 because of the ability of the virus to spread rapidly among humans, COVID-19 thereby constitutes a clear and present threat to the health, safety, and welfare of the residents and visitors of the Town of Fort Myers Beach; and

WHEREAS, the number of confirmed COVID-19 cases continues to rise throughout the country, the State of Florida, and Lee County, with at least 1 confirmed case in the Town of Fort Myers Beach (according to the Florida Department of Health report issued March 28, 2020); and

WHEREAS, on March 1, 2020, the Governor of Florida issued Executive Order Number 20-51, directing the State Health Officer and Surgeon General to declare a Public Health Emergency due to the discovery of COVID-19 in Florida; and

WHEREAS, on March 9, 2020, the Governor of Florida issued Executive Order Number 20-52, declaring a State of Emergency for the state of Florida related to COVID-19/novel Coronavirus; and

WHEREAS, the President of the United States has extended the CDC's nationwide social distancing guidelines through the end of the month of April 2020; and

WHEREAS, the Governor of Florida issued Executive Orders No. 20-91 and 20-92 instituting a state-wide "safer at home" guidelines and ordering "all persons in Florida [to] limit their movements and personal interactions outside of their home to only those necessary to obtain or provide essential services or conduct essential activities"; and

WHEREAS, "essential services" means and encompasses the list detailed by the U.S. Department of Homeland Security in its Guidance on the Essential Critical Infrastructure Workforce, v. 2 (March 28, 2020) and any subsequent lists published; and also include those businesses and activities designated by Executive Order 20-89 and a list propounded by Miami-Dade County in multiple orders; and

WHEREAS, in accordance with Sections 252.38 and 252.46, *Florida Statutes*, the Town Council of the Town of Fort Myers Beach adopted Resolution 20-13, declaring a state of emergency regarding COVID-19, and authorizing "**taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community**"; and

WHEREAS, pursuant to Sections 252.38 and 252.46, *Florida Statutes*; the Town of Fort Myers Beach Charter, and Sections 12-19 through 12-25 of the Code of Ordinances of the Town of Fort Myers Beach, Florida, the Town Council of the Town of Fort Myers Beach is empowered to take all prudent actions necessary to ensure the health, safety and welfare of the community; and

WHEREAS, on March 30, 2020, the Fort Myers Beach Town Council adopted

Emergency Declaration No. 1, attached hereto as Exhibit "A", which closed all Town meetings, Town parks beaches as set forth therein; and

WHEREAS, in the interests of protecting the health, safety, and welfare of the residents and visitors of the Town of Fort Myers Beach, the Town Council amends Emergency Declaration No. 1 to read as set forth herein.

NOW, THEREFORE BE IT RESOLVED,

1. The following events and activities within the Town of Fort Myers Beach are postponed, cancelled, closed or suspended:
 - A. All regular meetings of the Town boards, including all advisory and statutory boards, Town committees and Town working groups;
 - B. All Town special events.
 - C. All public gatherings of any type, whether organized or otherwise, of greater than 10 persons are prohibited.
 - D. All restaurants and other like entertainment facilities and businesses shall adhere to the latest state executive orders and mandates by Governor Ron DeSantis.
 - E. **Except as provided herein, all beaches and beach accesses in the Town of Fort Myers Beach are closed. No persons or activities are permitted on the beach and within the EC zoning district of the Town (generally seaward of the Coastal Construction Control Line). The beach is defined as the area of sand along the Gulf of Mexico that extends landward from the mean low-water line to the place where there is a marked change in material or physiographic form, or to the line of permanent vegetation, within the territorial boundaries of the Town of Fort Myers Beach from Bowditch Point (26°27'53.88"N, 81°58'7.74"W) to San Carlos Point (26°24'15.45"N, 81°52'58.38"W).**
 - (i) Residents of the Town of Fort Myers Beach, carrying proof of residency, may exercise (bike, run, and walk) on the public portion of the beach at or below the mean high tide line between 7 am and 10 am. All social distancing rules apply including:
 - (a) All individuals shall maintain 6 feet apart.
 - (b) No groups of more than 10 individuals.
 - (c) All individuals must wear facial covering, masks, etc.
 - (d) No sitting, reclining, or bringing of beach paraphernalia (i.e., no towels, chairs, coolers, etc.)

- (ii) Parking lot closures remain in effect.
- (iii) Beach access shall be via Town owned beach access points.

- F. All Town Parks, including recreational and cultural facilities and programs, remain closed.
- G. All residents and visitors of the Town of Fort Myers Beach are directed to comply with these emergency regulations and necessary measures, which shall be strictly enforced, and to cooperate with public officials and public safety personnel in executing any emergency operational plans, and to obey and comply with the lawful direction of all properly identified public officers.

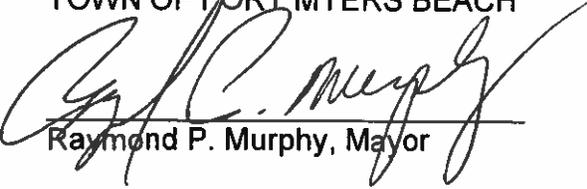
2. This Emergency Declaration amends and supersedes Emergency Declaration No. 1; it does not modify or otherwise supersede any other prior Emergency Declaration.

3. In accordance with applicable state law, Sections 1-12 and 12-25 of the Code of Ordinances of the Town of Fort Myers Beach and Article V of Chapter 2 of the Land Development Code of Fort Myers Beach, any violation of any rule or regulation issued and set forth herein may be punishable by a fine of up to \$5000.

This Emergency Declaration will be effective starting at 7:00 AM on Tuesday 28, April, 2020 until further notice.

Raymond P. Murphy, Mayor	nay
Rexann Hosafros, Vice Mayor	aye
Dan Allers, Council Member	aye
Jim Atterholt, Council Member	aye
Bill Veach, Council Member	nay

TOWN OF FORT MYERS BEACH


Raymond P. Murphy, Mayor

ATTEST:


Michelle D. Mayher, Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE
USE AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:



John R. Herin, Jr., Town Attorney

This Declaration was filed in the Office of the Town Clerk on this 30th day of April 2020
[see, §252.46(2), Fla. Stat.]. Michelle D. Mayher, Town Clerk

Exhibit "A"

DECLARATION OF EMERGENCY REGULATIONS

(COVID-19 State of Emergency - March 19, 2020)

WHEREAS, Novel Coronavirus Disease 2019 (COVID-19) is a severe acute respiratory illness that can spread among humans through respiratory transmission and other potential methods, and presents symptoms similar to those of influenza;

WHEREAS, in December of 2019, a new and substantial outbreak of COVID-19 emerged in Wuhan, China, and has since spread rapidly to 150 countries and territories throughout the World, including the United States, and more specifically Lee County and 30 other counties in the State of Florida;

WHEREAS, on March 11, 2020, the World Health Organization (WHO) declared COVID-19 a pandemic;

WHEREAS, the Centers for Disease Control and Prevention (CDC) is predicting that it is likely that widespread transmission of COVID-19 will also occur in the United States;

WHEREAS, no vaccine or drug is currently available to cure or combat COVID-19;

WHEREAS, the Town of Fort Myers Beach is threatened by COVID-19 because of the ability of the virus to spread rapidly among humans, and COVID-19 thereby constitutes a clear and present threat to the health, safety, and welfare of the residents and visitors of the Town of Fort Myers Beach;

WHEREAS, the CDC has issued guidelines for "community mitigation strategies" to limit the spread of COVID-19, including recommendations for social distancing, which has proven to be an effective method for containing COVID-19;

WHEREAS, President Trump issued an Proclamation Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak; Governor DeSantis has issued Executive Orders 20-51, 20-52 and 20-68, Lee County Board of County Commissioners adopted Resolution 20-03-18 declaring a state of emergency and subsequently closing all county beaches and parks; and the Town Council of the Town of Fort Myers Beach adopted Resolution 20-13 regarding COVID-19, declaring a state of emergency, and authorizing in accordance with Section 252.38, Florida Statutes, the waiving of "the procedures and formalities otherwise required of the political subdivision by law pertaining to . . . [the] performance of public work **and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community;**" and

WHEREAS, pursuant to Town of Fort Myers Beach Charter and Sections 12-19 through 12-25 of the Code of Ordinances of the Town of Fort Myers Beach, Florida, in the event of a proclamation of a state of emergency by the Governor, the Town Council of the Town of Fort Myers Beach is empowered to take all prudent actions necessary to ensure the health, safety and welfare of the community.

NOW, THEREFORE BE IT RESOLVED,

1. The following events and activities within the Town of Fort Myers Beach are postponed, cancelled, closed or suspended:
 - A. All regular meetings of the Town boards, including all advisory and statutory boards, Town committees and Town working groups;
 - B. All Town special events.
 - C. All public gatherings of any type, whether organized or otherwise, of greater than 10 persons are prohibited.
 - D. All restaurants and other like entertainment facilities and businesses shall adhere to the latest state executive orders and mandates by Governor Ron DeSantis.
 - E. **All beaches and beach accesses in the Town of Fort Myers Beach are closed. No persons or activities are permitted on the beach and within the EC zoning district of the Town (generally seaward of the Coastal Construction Control Line). The beach is defined as the area of sand along the Gulf of Mexico that extends landward from the mean low-water line to the place where there is a marked change in material or physiographic form, or to the line of permanent vegetation, within the territorial boundaries of the Town of Fort Myers Beach from Bowditch Point (26°27'53.88"N, 81°58'7.74"W) to San Carlos Point (26°24'15.45"N, 81°52'58.38"W).**
 - F. All Town Parks, including recreational and cultural facilities and programs, are closed.
 - G. All residents and visitors of the Town of Fort Myers Beach are directed to comply with these emergency regulations and necessary measures, which shall be strictly enforced, and to cooperate with public officials and public safety personnel in executing any emergency operational plans, and to obey and comply with the lawful direction of all properly identified public officers.
2. In accordance with applicable state law, Sections 1-12 and 12-25 of the Code of Ordinances of the Town of Fort Myers Beach and Article V of Chapter 2 of the

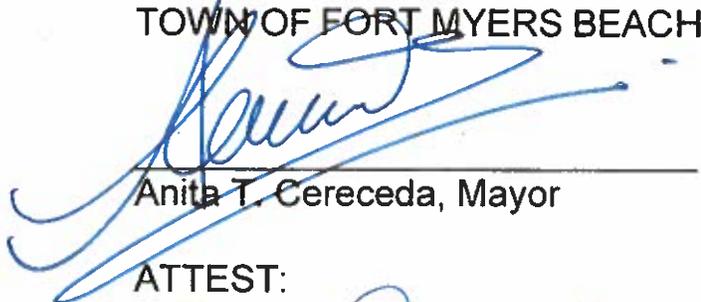
Land Development Code of Fort Myers Beach, any violation of any rule or regulation issued and set forth herein may be punishable by a fine of up to \$5000.

This will be effective starting at 6:00 PM on Thursday, March 19, 2020 until further notice.

Anita T. Cereceda, Mayor	Yes
Ray Murphy, Vice Mayor	Yes
Joanne Shamp, Councilmember	Yes
Rexann Hosafros, Councilmember	No
Bruce Butcher, Councilmember	Yes

ADOPTED this 19th day of March, 2020 by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH



Anita T. Cereceda, Mayor

ATTEST:



Michelle D. Mayher, Town Clerk