



# *Town of Fort Myers Beach*

## *Special Event Application Checklist*

2525 Estero Boulevard, Fort Myers Beach, Florida 33931  
Tel: (239) 765-0202 ext. 1303 \* Fax: (239) 765-0909 Email: [Specialevents@fmbgov.com](mailto:Specialevents@fmbgov.com)

- All necessary department approvals – an application is not considered completed until all approvals have been turned in to Town Hall.
  
- Detailed description of entire event including set up and breakdown
  
- Liability Insurance (\$1 million each occurrence and \$2 million general aggregate) naming the Town of Fort Myers Beach as certificate holder
  
- Site plan – marked off with placement of objects (chairs, tables, tents, etc.)
  
- Parking Plan – if applicable
  
- A copy of the 500 foot notification letter for any amplification along with the mailing list
  
- Letters of permission if using someone else's property for event.
  
- A **completed** application is to be turned in 45 days **prior** to the event or a \$5.00 per day cost will be added to the permit cost.
  
- If Town Council action is required the **completed** application must be turned in 60 days prior to the event in order to get put on the Council agenda to be brought forth to Council, also any application turned in after the 60 days a 10% additional charge to the permit will be added.



# Town of Fort Myers Beach

2525 Estero Boulevard, Fort Myers Beach, Florida 33931  
Tel: (239) 765-0202 Fax: (239) 765-0909 Email: [Specialevents@fmbgov.com](mailto:Specialevents@fmbgov.com)

Name of event \_\_\_\_\_

Attach separate sheet of paper with detailed description of event

Date(s) and times of event \_\_\_\_\_

Address of event \_\_\_\_\_

Expected # of participants/attendees \_\_\_\_\_

Sponsoring Organization \_\_\_\_\_

Organization address \_\_\_\_\_

Contact Person/Phone# \_\_\_\_\_

E-mail \_\_\_\_\_

Amplified Music Y  N  500 Ft Notifications \_\_\_\_\_ Copy of Letter \_\_\_\_\_

Renting Town Property Y  N  Renting Parking Spaces Y  N

How many Spaces? \_\_\_\_\_ How many hours \_\_\_\_\_

Extension of Premises? Y  N  ABT Form \_\_\_\_\_ **How many days?** \_\_\_\_\_ (Over 3 days needs to go to Council)

Letters of Permission to use Property \_\_\_\_\_

Letters of Permission to use Parking \_\_\_\_\_ Parking Plan \_\_\_\_\_

Site Plan \_\_\_\_\_ Insurance \_\_\_\_\_ (Naming Town of FMB as Certificate Holder)

Requesting Water Y  N  Electric Y  N

**Requires Council Approval:**

Waiver of open container Y  N  Waiver of Town parking fees Y  N

Waiver of Noise Ordinance Y  N  Recurring Event Y  N

Applicant Signature \_\_\_\_\_

Printed Name \_\_\_\_\_

**This permit is subject to the applicant meeting all requirements contained in Fort Myers Beach Code of Ordinance Book Part 2 Chapter 22 and in compliance with all items in the special event application.**

**Applicant to Complete:**

Company managing trash removal: \_\_\_\_\_

No. of dumpsters: \_\_\_\_\_ Type of dumpsters: \_\_\_\_\_

Who is responsible for clean-up and payment: \_\_\_\_\_

\_\_\_\_\_

City right-of-way Parking Use: \_\_\_\_\_ Number of spaces: \_\_\_\_\_

**To be completed by Town Hall employees:**

**FMB Public Works:**

Public Works remarks: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Approval: \_\_\_\_\_ Date: \_\_\_\_\_

**FMB Environment Science: Tel (239)765-0202 Fax (239)765-0909**

FMB Environmental Sciences remarks: \_\_\_\_\_

\_\_\_\_\_

Approval: \_\_\_\_\_ Date: \_\_\_\_\_

**Please forward the completed application and site plan along with the individual approval request to each identified agency below. Once complete return all to our office.**

**Florida DEP:** DEP now provides an online application process for minor event approval

Self Certification for CCCL Permit Guidance Document: <http://www.dep.state.fl.us/beaches/>

**FOR MAJOR EVENTS ONLY CONTACT**

**Kelly Cramer**

**Tel (239)770-7502 Fax(850)412-0590**

**Email: [kelly.cramer@floridadep.gov](mailto:kelly.cramer@floridadep.gov)**

**Florida DEP remarks:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Check list: Application \_\_\_\_\_ Site Plan \_\_\_\_\_ Description \_\_\_\_\_**

**Florida DEP approval: \_\_\_\_\_ Date: \_\_\_\_\_**

**Turtle Time Inc.:** Eve Haverfield

**Tel (239)481-5566 [eve@turtletime.org](mailto:eve@turtletime.org)**

**Turtle Season is May 1 through October 31**

**Turtle Time remarks:** \_\_\_\_\_

\_\_\_\_\_

**Turtle Time approval: \_\_\_\_\_ Date: \_\_\_\_\_**

**FORT MYERS BEACH FIRE DEPT**

17891 San Carlos Blvd – 3rd Floor, Fort Myers Beach, FL 33931

Tel (239) 590-4210

Fax (239) 463-6761

Fire Guards: (how many?) \_\_\_\_\_

Fee: \_\_\_\_\_

Flammable Vegetation: \_\_\_\_\_

First Aid Equipment: \_\_\_\_\_

Fire Extinguishing Equipment: \_\_\_\_\_

Special Arrangements: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Approval Signature

\_\_\_\_\_  
Date

[prevention@fmbfire.org](mailto:prevention@fmbfire.org) – For Fire Department Handbook and additional application.

**LEE COUNTY SHERIFF'S DEPT**

15650 Pine Ridge Road, Fort Myers, FL 33908

Tel (239)477-1830

Fax (239)432-0268

Parking: \_\_\_\_\_

Deputies (how many?) \_\_\_\_\_

Traffic Control: \_\_\_\_\_

\_\_\_\_\_

Fees: \_\_\_\_\_

Special Arrangements: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Approval Signature

\_\_\_\_\_  
Date



# FORT MYERS BEACH FIRE DEPARTMENT

100 VOORHIS STREET · FORT MYERS BEACH, FLORIDA 33931  
 MAILING ADDRESS: POST OFFICE BOX 2880 · FORT MYERS BEACH, FLORIDA 33932

## Special Events Application and Guidebook

### Event Type:

<input type="checkbox"/> Small Outdoor/Indoor Event	<input type="checkbox"/> Large Outdoor/Indoor Event	<input type="checkbox"/> Firework Display
Date of Application:		Date of Event:
Location:		
Event Start Date/Time:		Event End Date/Time:
Setup Date:	Setup Time:	Inspection Time:
Event Sponsor:		
Sponsor Contact:	Sponsor Phone #:	Sponsor Email:
Anticipated Number of Attendees:		Anticipated Number of Event Workers:
Will there be carnival or mechanical rides:		Number of Stages:
Total Number of Vendors:		Total Number of Hot Food Vendors:
Number of Tents larger than 20 x 20:		Number of 10 x 10 Tents:

Every vendor with a booth will receive a fire inspection and is responsible for paying an inspection fee. Please list the contact information for the responsible party below.

**Please Note:** If the event sponsor elects not to pay the vendor's inspection fee, a list of vendors with full contact information must be provided to the Fort Myers Beach Fire Department. This information will include contact name, number, and e-mail. All inspection fees will be due at time of service. All fees must be paid prior to releasing any permit.

Event applications submitted less than thirty (30) days prior to the event will be subject to additional fees. An expedited review may be requested and will be based upon availability, additional fees will apply.

Applications shall include the following:

- A legible site plan to include proposed layout of the event; fire hydrant locations; fire/emergency access; and distances to any structures.
- A life safety evaluation may be required based on the size of the event in accordance with the fire code.
- All vendors should review FMBFD guidelines, on our website at [www.FMBFire.org](http://www.FMBFire.org)
- Failure to comply with requirements of the FMBFD may result in additional fees and/or shutdown of the vendor(s).

Submitting Party Name (Print)  Submitting Party Name (Sign)  Date:	<b>Administrative Use Only</b>	
	Date Received:	
	Received By:	
	Fees Due:	Paid: <input type="checkbox"/>
	Forwarded for Review:	<input type="checkbox"/>

## **OUTDOOR FESTIVAL and SPECIAL EVENT GUIDEBOOK**

The purpose of this guidebook is to establish responsibilities for event promoters, sponsors, vendors, and the Fort Myers Beach Fire Department (FMBFD).

**Event Sponsor:** The Event Sponsor assumes overall responsibility for overseeing the setup and activities of the event, and ensures compliance with all applicable fire and life safety codes.

The Event Sponsor shall:

1. Ensure completion and approval of all required permits from the Fort Myers Beach Fire Department – Division of Life Safety, Town of Fort Myers Beach and/or Lee County.
2. Provide a site plan to the FMBFD with the following information:
  - a. Name of all streets and areas that are included in the event.
  - b. Location(s) of fire lanes (minimum 20 feet) width.
  - c. Location of all stages, non-food booth vendors, food vendors, and all displays. Provide details for cooking operations and displays that use heat-producing appliances.
  - d. Identify all emergency exits.
  - e. Identify any fire hydrants that are in the vicinity of the event.
  - f. A list of all food vendors with the type of food and cooking method is required.
  - g. Event Sponsor is responsible for distributing a copy of the Fire Department’s requirements to the hot food vendors.
  - h. Event radios (if used) shall be provided with a list of assigned channels.
  - i. **PARADE FLOATS:** Refer to float inspection/checklist provided on page 6 of this document.

**Event Vendors:** Event Vendors are responsible for the safe operation of their booth, display and/or attraction. All vendors shall coordinate with the Event Sponsor on the event setup, take down times, and ensure their setup complies with the following:

1. Fire lanes, fire department connections, and building access is clear and unobstructed.
2. Be prepared, at any time, for a fire inspection and correct any cited deficiencies prior to event start time.
3. Shall ensure all fire and life safety code requirements are maintained for the duration of the event.

**Fire Department Special Event Staff:** FMBFD staff will conduct an inspection on the special event prior to the scheduled start day and time. If required, correction notices shall be issued and a follow-up inspection will be required prior to opening. Fire inspections will include, but is not limited to, the following:

1. Hot food vendors – cooking operations, setup, extinguishing systems, fire extinguishers.
2. Fire Department Access – minimum 20 foot width; vertical clearance of 13.5 foot.
3. Access to fire hydrants, fire department connections, fire alarm panels, and command centers.
4. Event egress – accessible exits, required signage.
5. Rides and displays – inspect for safety and proper state certification tags.
6. Generators and propane tanks – location of fuel, stable base provided.
7. Stages – location of stage setup, extension cords used, fire extinguisher provided.
8. Non-Food vendors – setup, required fire extinguisher provided operations.
9. Beer and wine gardens – setup, exits marked, required fire extinguisher provided.
10. Pyrotechnic displays and open flame effects. **REQUIRES SEPARATE PERMIT** – Refer to permit application/checklist provided on page 8 of this document.

**Pyrotechnic Displays and Open Flame Effects:** Pyrotechnic displays require a separate permit from the FMBFD. Refer to permit application and checklist provided on page 7 of this document. The FMBFD shall review all open flame and theatrical flame effects. Open flame effects shall include, but are not limited to the following:

1. Fire dancing
2. Stage props and effects
3. Fire eating
4. Magic acts

**Access for Fire Apparatus:** During large events, it is important to maintain access points for apparatus. This includes not only fire trucks for suppression, but also other emergency vehicles including medical units. To ensure a safe event, all fire access requirements shall be enforced at all times.

Access through the event shall include the following:

1. A designated fire lane, no less than 20 feet wide with a vertical clearance of no less than 13.5 feet.
2. Access roads that exceed 150 feet with no exit, shall be provided with a means to turn around. A FMBFD representative shall approve all turning radiuses.
3. Any designated fire accesses shall be clearly identified with signage indicating “Fire Access – No Parking”.

**Access to Structures:** Access to structures and walkways shall be provided as required by FMBFD. Identified access points shall be reviewed at the time of permit submittal and may vary depending on the building and the venue. Access to the following shall be required:

1. All exterior doors and openings
2. Fire control rooms
3. Fire pump rooms
4. Parking structures
5. Exterior utility distribution vaults

**Access to Water Supplies:** Event Sponsors, Vendors, and all other event staff shall be required to maintain a 15-foot clearance around all fire hydrants and other water supply connections. If a setup is found to be blocking access to water supplies the set-up shall be immediately relocated. Access to the following shall be maintained at all times:

1. Fire Hydrants
2. Fire Department Connections
3. Post indicator valves – fire backflows – OS&Y valves

**Event Egress:** This section shall apply to two (2) types of events:

1. Fenced events – commonly located in parks or other large open areas.
2. Blocked streets – commonly done at events where main streets and cross streets are closed.

**Fenced Events:** These events typically take place in a park or other large open area where the designated area for the event is closed off by temporary fencing.

1. The number of exits shall be in addition to what is defined as the main entrance of the event. Three (3) exits shall be provided when the site accommodates 1,000 to 3,000 attendees and four (4) exits shall be provided when the site accommodates more than 3,000 attendees.
2. Exits shall be spaced equally along the perimeter of the fence. The maximum travel distance between exits shall not exceed 400 feet of travel. Additional exits shall be added, if needed.
3. The width of exits on temporary fencing shall be no less than 48 inches or approximately one (1) panel width.
  - A. A member of security shall staff every exit. The security provider shall be able to provide a gate assignment roster upon request.
4. Emergency exits shall be marked by one (1) of the following:
  - A. Exit signs shall have a white background with contrasting red letters.
  - B. Exit signs shall measure, at a minimum, 18 inches x 24 inches.
  - C. Sign letters shall measure 12 inches in height.
  - D. Signs shall be placed at the top center of exit panels.

**Blocked Streets:** Some events will require that main or cross streets be blocked from vehicular traffic. These types of closures shall account for fire and emergency vehicles and public egress.

1. Exits shall be located at each end of any street closure. Cross streets shall also have emergency exit access.
2. A fire lane, no less than 20 feet wide and no less than 13.5 feet high, shall be maintained as designed by FMBFD.

## **TENTS, CANOPIES and TEMPORARY MEMBRANE STRUCTURES**

Tents and canopies used for occupancy and/or cooking operations are subject to a fire inspection.

**Sources of Ignition:** Smoking is prohibited in or around tents, canopies, and temporary membrane structures. “No Smoking” signs shall be clearly posted. Fireworks, open flames, and any other device that is capable of igniting combustible materials shall not be used in any area in or around tents, canopies, and temporary membrane structures as well as around any combustible material. **Propane heaters are not permitted inside any enclosed area.**

### **Applications for any tent, canopy, or temporary membrane structure shall include the following:**

1. A site plan with the proposed location of the tent including measurements showing distances to surrounding buildings, and/or property lines. A minimum 20-foot separation and fire access is required.
2. Proposed floor plan of the tent, showing the location and number of exits, fire extinguishers, stages, seating arrangements, tables and, any other items.
3. Certificates of flame retardant shall be submitted with the application and should be the manufacturers’ documentation attesting to the certification.
4. Any cooking and/or open flames.
5. Heaters and ventilation.
6. Items specific to the event should be included for review.

### **THE FMBFD MAY REQUEST SPECIAL EVENT APPLICANTS TO SUBMIT A LIFE SAFETY EVALUATION ALONG WITH AN FMBFD SPECIAL EVENT APPLICATION.**

Life Safety Evaluation:

1. Name of event, participants, and projected number of attendees.
2. Access and egress movement, including crowd density problems.
3. Medical emergency mitigation plan.
4. Fire hazards.
5. Permanent and temporary structural systems.
6. Severe weather mitigation plan.
7. Civil or other disturbances mitigation plan.
8. Mitigation plan for a hazardous material incident within or near the facility.
9. Relationships among facility management, event participants, emergency response agencies, and others that have a role in the events taking place in the facility.

**Please ensure that all items are addressed, any missing and/or incomplete evaluations will result in a delay and/or denial of the submitted application.**

## **HOT FOOD VENDOR REQUIREMENTS**

The use of food booths or food trucks is regulated by FMBFD. These requirements shall apply to single vendors, freestanding booths, and food trucks. Cooking within tents containing seating is subject to additional requirements. All food vendors are subject to inspection prior to the start of the event. *Failure to comply with the following regulations may result in closure until compliance is met.*

**Flame Retardant Requirements:** All sidewalls, drops, and tops of tents and canopies, shall be of flame resistant material or treated with a flame retardant application as recommended by the manufacturer.

**Portable Fire Extinguishers:** Each food booth shall have, at a minimum, one (1) – 2A:10BC fire extinguisher with a current state inspection tag from a licensed contractor. If there will be any deep fat frying or cooking that produces grease-laden vapors, a Class K fire extinguisher with a current state inspection tag from a licensed contractor, shall be provided in addition to the ABC type.

**Vendor Location:** Food booths shall have a clearance of at least 20 feet on two (2) sides. The booth shall not be located within 10 feet of any rides or devices. Cooking that produces sparks and/or grease-laden vapors shall not be conducted within 10 feet of a structure or combustible overhang.

**Cooking Appliances:** Any cooking appliance used shall be listed for its intended use.

1. Deep fat fryers are not permitted to be used under tents and shall be located at least 18 inches from the outside wall of the tent. If a fryer is to be used in conjunction with a Barbeque (BBQ), it shall be at least three (3) feet away from the BBQ. Use of fryers also requires a Class K fire extinguisher as outlined above.
2. BBQ's are not permitted to be used in food booths. In addition, any fuels are to be kept at least 10 feet away from any heat source. BBQ's that are in use shall be located at least 10 feet from a structure, combustible materials, and overhangs. BBQ's and other open flame devices located outside of a structure, shall be secured from falling and kept away from contact by the public.

**Smoking:** Smoking is prohibited at all times within food booths, or within 25 feet of any fuel source.

**Generators:** Generators shall be located a minimum of 20 feet from tents or canopies and isolated from the public by a means approved by the FMBFD.

1. Flammable liquid filled equipment shall not be used within temporary membrane structures, tents, or canopies.
2. Flammable and combustible liquids shall be stored outside and in approved/marked containers. Containers shall be located no less than 50 feet from temporary membrane structures, tents, or canopies.
3. Refueling shall be performed in an approved location not less than 20 feet from temporary membrane structures, tents, or canopies. **Refueling of hot generators is not permitted.**
4. A 2A:10BC fire extinguisher with a current state inspection tag is required for any operation with a generator.

**Fuel:** Fuel tanks (LPG) shall be stored outside of the structure. The tanks shall be secured (to prevent tipping) and located away from any public contact. The size of the tank is restricted to 25 pounds, unless prior approval is received from the FMBFD. Propane tanks, fittings, and hoses will be checked to ensure there are no leaks.

## FLOAT INSPECTION/CHECKLIST

It is recommended that owners and/or operators be advised of their compliance with these regulations.

<input type="checkbox"/>	Exhaust pipes on vehicles shall not come in contact with anything flammable on floats.
<input type="checkbox"/>	Exhaust pipes shall be kept clear allowing for proper ventilation of fumes and preventing a carbon monoxide hazard.
<input type="checkbox"/>	All dried vegetation, or similar items being used shall be fire resistant or treated with fire retardant materials. Documentation shall be forwarded to FMBFD for review.
<input type="checkbox"/>	No smoking is permitted on or around any floats.
<input type="checkbox"/>	No re-fueling of generator while generator is running or hot.
<input type="checkbox"/>	All generators shall be secured and provided with a shut-off switch that is easily visible and accessible.
<input type="checkbox"/>	Gasoline containers shall be UL listed type safety cans.
<input type="checkbox"/>	All pull behind trailers and floats shall be equipped with a 2A:10BC fire extinguisher with a current state inspection tag from a licensed contractor. The fire extinguisher shall be mounted so that it is visible and easily accessible.
<input type="checkbox"/>	All seating shall be properly secured to float.
<input type="checkbox"/>	Trailer hitches shall be secured in the locked position by a tie strap or bolt.
<input type="checkbox"/>	Trailers must have safety chains attached to tow vehicle.
<input type="checkbox"/>	All extension cords shall be listed and approved for outdoor use.

Please remember that this list is subject to change and additional fire and life safety requirements may be required.

## **PYROTECHNICS PERMIT APPLICATION**

Please be advised that application must be filed at least 30 days prior to the scheduled event. All permit fees must be paid prior to approval. Permits are non-transferable.

Date of Application: \_\_\_\_\_

Sponsoring Organization: \_\_\_\_\_

Phone/Emergency Contact Number: \_\_\_\_\_

Applicant/Company Name: \_\_\_\_\_

Phone/Emergency Contact Number: \_\_\_\_\_

Name and Address of technician: \_\_\_\_\_

Name(s) of assistants: \_\_\_\_\_

A copy of the technician's driver's license must be included along with a resume and three (3) references. Please include a copy of all assistants' drivers' licenses indicating they are a minimum of 18 years of age.

Date, Time and expected length of show: \_\_\_\_\_

Location of Display: \_\_\_\_\_

**(Attach aerial site map showing required fall out and safety zones)**

**DISCHARGE DETAILS:** Displays are only permitted to be electronically fired. Please provide detail on quantity, size, type, number of bursts (single/multiple) as well as a description of the display in the space below:

<b>QTY</b>	<b>Size</b>	<b>Type</b>	<b># of burst</b>	<b>Description of Display</b>

The following documents/information must be submitted along with completed application:

1. Event Itinerary
2. Security/Fire Watch Agreement (if required)
3. Coast Guard Application and Approval Letter (if required)
4. FAA Application and Approval Letter (if required)
5. Aerial Site Plan indicating minimum setbacks/required radius, per NFPA Standard

Notification shall be given prior to the Life Safety Division arriving at the site with transport vehicle. Final approval is subject to an onsite inspection. The FMBFD reserves the right to deny or revoke any permit for unsafe conditions, acts, or non-compliance with provisions of applicable standards. Shows may be cancelled or delayed based on changes in weather or other conditions as deemed necessary by the onsite Life Safety Division representative.

## TENT INSPECTION FORM/CHECKLIST

<input type="checkbox"/>	Fire extinguishers shall be provided by each vendor with a current state inspection tag from a licensed contractor. (Minimum size permitted is 2A:10BC). Operations conducting deep-frying shall have a K Class fire extinguisher with a current state inspection tag.
<input type="checkbox"/>	Propane tanks shall be installed not less than 5 feet from tents, properly secured, and identified.
<input type="checkbox"/>	“No Smoking” signs shall be clearly posted.
<input type="checkbox"/>	All tents larger than 100 square feet shall have the manufacturer’s flame retardant tag affixed to the tent. (Must be clearly visible).
<input type="checkbox"/>	Cooking under tents will be permitted <b><u>ONLY</u></b> when a manufacturer’s flame retardant tag is affixed to the tent, the tent is not enclosed (on any side), and only persons preparing food are permitted under the tent. Any size tent that fails to have the affixed flame retardant tag may not be used to cook under.
<input type="checkbox"/>	Heavy duty <u>grounded type only</u> extension cords may be used. Wiring shall not be frayed, damaged, or spliced.
<input type="checkbox"/>	Temporary lights or lamps may be used, but must be UL Listed. Wiring shall not be frayed, damaged, or spliced.
<input type="checkbox"/>	Exit signs and/or emergency lights (if required) must be clearly visible.
<input type="checkbox"/>	Occupant load sign (if required) must be clearly visible.
<input type="checkbox"/>	Tents shall not obstruct any fire department access.

Please be advised that FMBFD inspects tents for the safety of all parties involved. These are minimum safety requirements and all parties must be in compliance.

**ORDINANCE NO. 20-17**

**AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING CHAPTER 22 OF THE FORT MYERS BEACH CODE OF ORDINANCES ENTITLED "SPECIAL EVENTS"; AND AMENDING PROVISIONS OF CHAPTERS 6, 14, AND 34 OF THE FORT MYERS BEACH LAND DEVELOPMENT CODE, PERTAINING TO SPECIAL EVENTS; PROVIDING FOR SEVERABILITY; CODIFICATION; SCRIVENER'S ERRORS; CONFLICTS OF LAW AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

**WHEREAS**, Article X of the Town Charter of the Town of Fort Myers Beach empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

**WHEREAS**, the Town Council desires to update the Chapters of the Town of Fort Myers Beach Code of Ordinances and Fort Myers Beach Land Development Code regulating special events to clarify, improve, simplify, and create consistency among sections of the Code of Ordinances and Land Development Code; and

**WHEREAS**, the Town also recognizes that both its economy and the quality of life of its residents are enriched by the proper regulation of special events and temporary uses; and

**WHEREAS**, on December 1, 2020 the Local Planning Agency, after giving consideration to the staff recommendation, public testimony, and consistency with the Comprehensive Plan, recommended approval of the proposed amendment; and

**WHEREAS**, on December 7, 2020 the Town Council held a first reading of the proposed Ordinance; and.

**WHEREAS**, on January 19, 2021 the Town Council held a second reading of the proposed Ordinance; and.

**NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:<sup>1</sup>**

**Section 1.** The above recitals are true and correct, and incorporated herein by this reference and are hereby adopted as the legislative and administrative findings of the Town Council.

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<sup>1/</sup> Additions to existing text are shown by underline, changes to existing text on second reading are shown by double underline, and deletions are shown as ~~strikethrough~~.

Section 2. Chapter 22 of the Town of Fort Myers Beach Code of Ordinances entitled “Special Events” is hereby amended to read as follows:

### **Chapter 22 - Special Events**

#### **Sec. 22-1. - Definitions.**

*Political demonstration.* A public gathering, procession or parade, the primary purpose of which is the exercise of the rights of assembly and free speech as guaranteed by the First Amendment to the Constitution of the United States.

~~*Special event.* Any activity conducted on public or private property that will or has the potential to substantially affect the ordinary and customary use of beaches, public streets, rights of way, sidewalks, and other public forums, including any temporary activity conducted on private property that is not authorized by the certificate of use or certificate of occupancy issued for any business operating on the property where the activity is planned, or any temporary activity conducted on private property where the area of the activity coincides with parking spaces required for the operation of any business~~ An activity within the boundaries of the town of Fort Myers Beach which would inhibit the usual flow of pedestrian or vehicular travel or which occupies any public area or building so as to preempt use of said area by the general public or which deviates from the established use of said area of building, but such term does not include the following:

- (1) Any usual and customary noncommercial accessory use of a residential dwelling unit;
- (2) Any use or activity specifically approved by a development permit issued by the city; or
- (3) Private gatherings that will make no use of a public property other than for lawful parking;
- (4) ~~Any garage sale conducted in compliance with the requirements of this chapter.~~

#### **Sec. 22-2. - Permit required.**

No person or entity ~~can initiate, sponsor, organize, promote,~~ may conduct ~~or advertise~~ a special event unless a permit has been obtained from the town.

**Sec. 22-3. - Exemptions from permit requirement.**

The following do not require a special event permit:

- (1) Private events that will make no use of a public property other than for lawful parking.
- (2) Events conducted solely for the purpose of exercising a group's first amendment right of free speech and/or assembly. If an event has any commercial aspect, or is a political demonstration as defined in section 22-1, or requires the closure of roadways, sidewalks or the use of Town or County staff, then this exemption will not apply.

**Sec. 22-4. - Fees.**

All fees that relate to special events and special events permits will be as stated in the current Town of Fort Myers Beach Fee Schedule.

**Sec. 22-5. - Permit fee exemption for special events conducted by the town.**

The town is exempt from all permit fees relating to special events conducted by the town.

**Sec. 22-6. – Types of events requiring a special event permit.**

The following types of events will require a special event permit. Events, other than these specifically listed, may also require a special event permit.

- (1) Carnivals, Fairs, Festivals and Circuses;
- (2) Farmer's Markets and Flea Markets;
- (3) Art Shows;
- (4) Running, Walking or Bicycling Events;
- (5) Concerts;
- (6) Fireworks;
- (7) Parades;

(8) Similar events requiring off-site parking, street or sidewalk closures, sound amplification or use of public property or Town staff.

**Sec. 22-67. - General criteria and limitations.**

The following general criteria and limitations apply to special event permits:

(1) The activity proposed must be compatible with the surrounding land uses.

(2) An individual applicant may not receive a special event permit more than six times within a calendar year, provided, however, that the town council may grant businesses or entities approval for a recurring event permit that is not subject to this limitation (see section 22-7) and provided further that the town council has the authority to permit an individual applicant to exceed the six event annual limitation in its discretion.

(3) ~~For any special event that will include a temporary use regulated by LDC chapter 34 (see LDC sections 34-3041 through 34-3051) a temporary use permit may also be required.~~ For any special event that will take place all or in part upon the beach will be subject to all requirements contained in ~~LDC section 14-11~~ this chapter and any requirements of state or federal agencies relating to activities that take place on the beach.

(4) For any special event where alcoholic beverages will be sold, the applicant ~~must~~ may need to obtain a temporary one-day permit as ~~prescribed~~ described in LDC section 34-1264, as applicable. Applicants must obtain any required permits from the Florida Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco.

(5) The following types of special events must be approved by the town council:

- a. Special events with a duration of four days or more where alcohol will be served;
- b. Special events with an anticipated attendance of more than 500 people;

c. Recurring special events (see section 22-76);

d. Any special event that includes a waiver of the town's open container regulations (see Code chapter 4, article IV);

e. Special events held annually, once initially approved by town council, may be administratively approved by the town manager (i.e., without formal action by town council) for subsequent years, so long as they do not include a noise ordinance waiver request (~~see subsection (6)g~~) of this section, or a material change in the nature of the annual special event. Material changes include an anticipated increase in attendance of ten percent or more, an increase of the area of the special event of ten percent or more; changes or additions to the parking plan for the special event; or other changes as determined in the sole discretion of the town manager;

f. Special events for which a waiver of ~~parking or other town~~ fees is requested. If the waiver was previously approved by the town council in conjunction with approval of a recurring special event or annual event and special event is subject to administrative approval, then the related waiver may also be administratively approved; and

g. Special events for which a waiver of the ~~Fort Myers Beach Noise Ordinance~~ noise regulations is requested.

h. Special events, which require the closure of streets or sidewalks.

(6) Special events that occur on or near the beach or dune.

a. Due to the potential for adverse impacts, certain special event activities may not be compatible with sea turtle nesting areas. In some cases, this is due to the type of activity where permit conditions alone cannot provide adequate protection. In other cases, the density of sea turtle nesting prevents certain activities from being conducted safely.

b. Special events that occur on or near the beach or dune, or where lighting from the special events directly or indirectly illuminates sea turtle habitat, may contain special conditions for protection of the beach, dune and sea turtles. These conditions are in addition to the basic requirements of the town's special events permit provisions, which must still be met in full.

1. Along with the regular application for an event permit, a site plan must be submitted depicting the property corners and the dimensions of the area where the event is proposed to occur, the location of existing vegetation, structures, and any existing sea turtle nests, and a summary of the activities proposed. A lighting plan that includes the location, number, type, wattage, orientation, and shielding for all proposed artificial light sources that will be used must also be submitted. All lighting must be in compliance with §14-75 of the Fort Myers Beach Code of Ordinances.

2. Prior to the granting or denying of the application, an on-site inspection will be conducted to determine if the proposed event conforms to the requirements of this section and if any native vegetation or sea turtle nests exist to be protected.

3. Based upon the information contained in the application and the site inspection, the application shall be approved or denied.

4. Site-specific conditions may be attached to the permit relating to identifying, designating, and protecting any existing vegetation and sea turtle nests in accordance with this code. These conditions are in addition to the following standard permit conditions for all special events on the beach:

i. During the sea turtle season (May 1 through October 31), special

event activities including construction shall be confined to daylight hours and shall not begin before 8:00 a.m. or before completion of daily monitoring for turtle nesting activity by a FWC-authorized marine turtle permit holder, whichever occurs first. However, no activity shall take place until after a daily sea turtle nest survey is conducted as indicated below.

ii. During sea turtle nesting season (May 1 through October 31), the permittee is responsible for ensuring that a daily sea turtle nest survey, protection, and monitoring program is conducted throughout the permitted special events area. Such surveys and associated conservation measures shall be completed after sunrise and prior to the commencement of any activity. The sea turtle survey, protection, and monitoring program shall be conducted only by individuals possessing appropriate expertise in the protocol being followed and a valid F.A.C. Rule 68-E permit issued by the FWC. To identify those individuals available to conduct marine turtle nesting surveys within the permitted area, please contact the FWC, Bureau of Imperiled Species Management, at (850) 922-4330.

iii. All turtle nests will be marked with wooden stakes, flagging tape, and a FWC sea turtle nest sign. No activities (including the placement of equipment or the storage of materials) are allowed within 30 feet of the marked nest. The permittee shall ensure that all personnel are briefed on the types of marking utilized and be able to easily contact the

individual responsible for the nest survey to verify any questionable areas.

5. A violation of the special or standard conditions will automatically invalidate the permit. Periodic compliance inspections will be conducted to insure compliance with the permit conditions and this article.

6. The release of balloons is prohibited in accordance with F.S. § 372.995, except as permitted by that statute.

**Sec. 22-78. - Recurring special events.**

To qualify as a recurring event, the event must be the same type of event and must be held in the same location. Examples of a recurring event include, but are not limited to, farmers' markets, "sunset celebrations," and music or art themed events. Recurring special events are subject to the following requirements:

- (1) Each event must be held at the same location at the same time of day.
- (2) All dates for the recurring event must be listed on the original application.
- (3) Each individual event must be of the same genre with similar anticipated attendance.
- (4) A recurring special event may not occur more often than weekly over a period of one year based upon a single application.

**Sec. 22-89. - Application requirements.**

- (a) Any person or entity seeking issuance of a special event permit must file a written application with the town manager on forms provided by the town.
- (b) If any town council actions are required in connection with a planned special event, the application for the permit must be filed at least 60 days prior to the date of the planned event.

(c) Applications for special event permits that do not require town council action must be filed at least 15 days prior to date of the planned event.

(d) Incomplete applications will not be processed for approval.

(e) Applications received less than the specified days before the date of the planned event, may be accepted at the discretion of the town manager. If the late application is accepted, the town manager has the discretion to impose additional permit fees, as per the Town of Fort Myers Beach Fee Schedule, to facilitate timely review and approval.

(f) A complete permit application must include, but may not be limited to, the following:

(1) The name of the special event and its purpose in general terms.

(2) The name(s) of the person(s) or organization(s) sponsoring the special event, together with the addresses and telephone numbers of all such persons or organizations.

(3) The proposed date or dates of the special event.

(4) The expected number of persons who will attend the event.

a. Events with an anticipated attendance exceeding 500 people requires approval by the Town Council.

(5) The specific location(s) within the town where the special event is to be held. The applicant must submit a general site plan that identifies the area(s) of the property used for the event activities, any and all tents, canopies, recreational vehicles, or accessory structures that are to be utilized in connection with the special event activity. A parking plan must be included as part of the special event permit application. The location of any parking and accessory structures may not obstruct traffic or violate any applicable town, county or state laws.

(6) In instances where a proposed special event will be held within 500 feet of residential property and will include any amplified sound, the applicant shall provide notice to

such owners and advise them of the nature of the event and the dates and times when the event will be held. The 500 feet shall be measured from the perimeter of the site where the event will take place and for condominium properties, a single written notification to the condominium association will be sufficient. The notification shall advise the owner of their right to submit a letter of objection to the town manager, and shall include the date by which any such letter of objection must be submitted.

(7) Whether any street closings are requested and, if so, which streets and the times when they will be closed.

a. A request to close any streets requires approval by the Town Council.

(8) Whether any alcoholic beverages will be sold or served. If alcoholic beverages will be sold the applicant must obtain all necessary permits as described in section 22-67.

a. A request to waive the Town's open container regulations requires approval by the Town Council.

b. Any event four days or longer and where alcohol will be served requires approval by the Town Council.

(9) If any entertainment will be included, details as to the type of entertainment, times and location must be provided.

(10) Whether utility services such as electrical power or water will be required.

~~(11) Whether the applicant is requesting have a banner hung in association with the event, see section 22-15. A proof of the proposed banner is required~~ All proposed signage shall be in compliance with Chapter 30 Signs of the Land Development Code. The applicant shall provide application for signs or shall propose signs exempt from the ordinance per LDC Sec 30-6.

(12) Proof indicating approval of the event from all applicable outside state and local agencies.

(13) In instances when the sound emanating from a proposed special event is anticipated to exceed the limits

established in ~~Code~~ Section 14-23 of the Fort Myers Beach Code of Ordinances, the applicant must provide proof of application for a waiver for relief from the maximum allowable noise levels in accordance with section 14-25 of the Fort Myers Beach Code of Ordinances. As part of the waiver application process, the applicant is required to provide notice to all property owners within 500 feet of the location of the proposed special event, advising them of the nature of the event and the dates and times when the event will be held. The 500 feet is measured from the perimeter of the site where the special event will take place; and for condominium properties, a single written notification to the condominium association is sufficient.

a. A request to waive the noise regulations requires approval by the Town Council.

~~(14) Proof of application for approval of any temporary use permits required in conjunction with the special event, see sections 34-3041—34-3051 of the Fort Myers Beach Land Development Code.~~

~~(154) An affidavit, signed by the applicant, that all the information provided in the application is a complete and accurate description of the proposed event and that permission has been obtained from the owner of any land upon which the special event is to be held, unless the event is to be held exclusively on public property.~~

~~(16) An affidavit, signed by the applicant, that permission has been obtained from the owner of any land upon which the special event is to be held, unless the event is to be held exclusively on public property.~~

~~(175) The town manager has the authority to require any reasonable additional information from the applicant that the town manager deems necessary.~~

#### **Sec. 22-~~910~~. - Review of application.**

Upon receipt of an application that contains all of the items listed in section 22-~~89~~ and required application fees, the town manager will forward copies of the application to all affected town departments for their review.

(1) If the special event permit can be approved by the town manager administratively, the town manager will grant or deny an application for a special event permit within ten days of receipt of a complete application.

(2) Special event permits requiring town council action will be scheduled for consideration at the next regularly scheduled town council meeting.

(3) The town manager and town council have the right to place conditions on a special event permit to mitigate any anticipated adverse effects on nearby properties.

**Sec. 22-1011. - Grounds for denial.**

(a) The town manager or town council may deny an application for a special event permit if the applicant, or the person on whose behalf the application for a permit was made, has on a prior occasion made a material misrepresentation regarding the nature or scope of an event or activity previously permitted by a special event permit, or, who has previously violated the terms of a prior special event permit, issued to or on behalf of the applicant. An application for a special event permit may also be denied for any of the following reasons:

(1) The application for a special event permit (including any required attachments and submissions) is not fully completed and properly executed;

(2) The applicant has not tendered the required application fee, if any, with the application or has not tendered any other required fees, indemnification agreement, insurance certificate, or security deposit, if any, within the times prescribed by the town manager;

(3) The application contains a material falsehood or misrepresentation;

(4) The applicant or the person on whose behalf the application for the special event permit has been made has on prior occasions damaged town property and has not paid in full for such damage, or has other outstanding and unpaid debts to the town;

(5) A fully executed prior application for a special event permit for the same time and place has been received, and a

special event permit has or will be granted to the prior applicant, authorizing uses or activities which do not reasonably permit multiple occupancy of the area where the event is proposed to be held;

(6) The use or activity intended by the applicant will conflict with previously planned programs organized or conducted by a governmental agency and previously scheduled for the same time and place;

(7) The use or activity intended by the applicant would present an unreasonable danger to the health or safety of the public;

(8) The applicant has not complied or cannot comply with applicable licensure requirements, laws, ordinances or regulation of the state, the county or the town concerning the sale or offering for sale of any goods or services; or

(9) The use or activity intended by the applicant is prohibited by state or federal law or by ordinances or regulations of the county or the town.

(b) If the special event application is denied, the applicant is not entitled to receive any reimbursement from the town for any costs incurred during the application process, including the application fee.

**Sec. 22-~~11~~12. - Notification of denial and right of appeal.**

(a) Any applicant who is denied a special event permit by the town manager will be notified in writing. Said notification will state the reasons for the denial and the right of appeal to the town council, and will be sent by registered mail to the applicant.

(b) The applicant will have ten days from receipt of the written notification of permit denial to request an appeal hearing before the town council. If the appeal cannot be heard by the town council prior to the date when the event is scheduled to be held, the filing of an appeal will not entitle the applicant to conduct the event on that date but, if the appeal is successful, the applicant may hold the event on a rescheduled date that is after the town council meeting at which the appeal was heard.

(c) An appeal of the decision of the town council may be made to the circuit court by filing a petition for writ of certiorari as

provided for under the Florida Rules of Appellate Procedure. A decision of the town council will be deemed to have been rendered on the date the town council votes to either grant or deny the appeal.

**Sec. 22-~~12~~13. - Litter.**

(a) Special event permit holders are responsible for ensuring that the area where the event is held is free of all litter and debris within 24 hours of the time the special event ends. Events that span more than a 24-hour period are responsible for removing all garbage and litter at the end of each day.

(b) In the event this section is not complied with, the town manager has the authority to contract with a cleaning service and the cost of the cleanup will be the responsibility of the permit holder and, if not promptly paid, may be deducted from any required security deposit (see section 22-14).

**Sec. 22-~~13~~14. - Security for unpaid expenses.**

The town manager may require the posting of a security deposit, or other form of security acceptable to the town, to ensure that any unpaid expenses or damages incurred as a result of the event are satisfied.

**Sec. 22-~~14~~15. - Indemnification and liability insurance.**

(a) Prior to the issuance of the special event permit, the applicant is required to execute an indemnification and hold harmless agreement in a form acceptable to the town attorney.

(b) Prior to the issuance of the special event permit, the applicant is required to obtain, at its sole expense, public liability insurance, with minimum limits as required by the town, that includes coverage for any town property utilized and naming the town as an additional insured.

**~~Sec. 22-15. - Signage.~~**

~~(a) All signage relating to special events must comply with LDC chapter 30.~~

~~(b) Banners across Town of Fort Myers Beach rights-of-way. Special event permit applicants may request to hang a banner advertising the special event across the Town of Fort Myers Beach right-of-way at the base of the Sky Bridge. All banners must be~~

~~approved by town manager. Banners may not contain any commercial information for the purpose of advertising anything other than the special event. Banners will not be approved until approval has been obtained for the associated special event. Banners are hung on a on a first come first served basis. Banners may hang for a period of two weeks prior to the event; provided, however, that the town manager may permit a banner to be hung for a period of up to four weeks if availability allows. All banners must have grommets that are no less than two feet apart on the top and bottom. Banners can be no larger than 16 feet in width and three feet high.~~

~~(e) For any special event where a requested road closure has the potential to affect a sizeable segment of the community, notice of such closure must be provided to the public at least five days prior to event if variable message signs are utilized or 14 days prior to an event if static signs are utilized. Type and placement of signs will be determined by public works director. The applicant is responsible for any fees associated with the static signs or variable message boards.~~

#### **Sec. 22-16. - Revocation.**

The town manager has the authority to revoke a special event permit issued pursuant to this chapter upon violation of any of the requirements contained in the permit or in this Code or the LDC.

Section 3. Section 6-366 of Chapter 6 of the Town of Fort Myers Beach Land Development Code is hereby amended to read as follows:

#### **Sec. 6-366. - Location of construction near beaches.**

(a) Except for beach renourishment and for minor structures such as lifeguard support stands and beach access ramps, all construction must be located a sufficient distance landward of the beach to permit natural shoreline fluctuations and to preserve dune stability. In addition to complying with all other provisions of this code, major structures must be built landward of the 1978 coastal construction control line except where a major structure may be specifically allowed by this code to extend across this line. The 1978 coastal construction control line is depicted on the Future Land Use Map as the seaward edge of land-use categories allowing urban development and as the landward edge of the recreation land-use category. This line is also the landward edge of the EC (Environmentally Critical) zoning district.

(b) Occasional minor structures are permitted by right in the EC zoning district if they are placed on private property and do not alter

the natural landscape or obstruct pedestrian traffic (examples are mono-post shade structures, movable picnic tables, beach volleyball courts, and similar recreational equipment, see § 34-652 of this LDC). Artificial lighting and signs may not be installed in the EC zoning district unless approved by special exception or as a deviation in the planned development rezoning process or unless explicitly permitted by §§ 14-5 or 27-51 of this LDC.

(1) Other provisions of this code provide for certain other minor structures in the EC zoning district:

a. Perpendicular dune walkovers are permitted by right in accordance with § 10-415(b) and subsection (d), below.

b. Some temporary structures such as tents may be permitted through a ~~temporary use permit~~ for special events permit held on the beach, in accordance with ~~§ 14-11 of this LDC~~ Ch. 22 of the Code.

c. Licensed beach vendors may place rental equipment and/or a temporary movable structure in accordance with § 14-5, Ch. 27, and § 34-3151 of this code.

Section 4. Section 14-11 of Chapter 14 of the Town of Fort Myers Beach Land Development Code is hereby repealed:

~~**Sec. 14-11. Special events on the beach.**~~

~~(a) Special events on the beach are any social, commercial, or fraternal gathering for the purpose of being entertained, instructed, viewing a competition, or any other reason that would bring them together in one location that normally would not include such a concentration of people on or near the beach.~~

~~(b) Special events on the beach are temporary, short term activities, which may include the construction of temporary structures; temporary excavation, operation, transportation, or storage of equipment or materials; and/or nighttime lighting that is visible seaward of the coastal construction control line (CCCL). Generally, activities within this category include, but are not limited to: sporting events (e.g., volleyball, personal watercraft races, offshore powerboat races), festivals, competitions, organized parties (e.g., weddings), promotional activities, concerts, film events, balloon releases, and gatherings under tents.~~

~~(e) Due to the potential for adverse impacts, certain special event activities may not be compatible with sea turtle nesting areas. In some cases this is due to the type of activity where permit conditions alone cannot provide adequate protection. In other cases the density of sea turtle nesting prevents certain activities from being conducted safely.~~

~~(d) Special events that occur on or near the beach or dune, or where lighting from the special events directly or indirectly illuminates sea turtle habitat, may contain special conditions for protection of the beach, dune and sea turtles. These conditions are in addition to the basic requirements of the town's special events permit provisions, which must still be met in full.~~

~~(1) Along with the regular application for an event permit, a site plan must be submitted depicting the property corners and the dimensions of the area where the event is proposed to occur, the location of existing vegetation, structures, and any existing sea turtle nests, and a summary of the activities proposed. A lighting plan that includes the location, number, type, wattage, orientation, and shielding for all proposed artificial light sources that will be used must also be submitted. All lighting must be in compliance with § 14-75.~~

~~(2) Prior to the granting or denying of the application, an on-site inspection will be conducted to determine if the proposed event conforms to the requirements of this section and if any native vegetation or sea turtle nests exist to be protected.~~

~~(3) Based upon the information contained in the application and the site inspection, the application shall be approved or denied. approve or deny the application.~~

~~(4) Site-specific conditions may be attached to the permit relating to identifying, designating, and protecting any existing vegetation and sea turtle nests in accordance with this code. These conditions are in addition to the following standard permit conditions for all special events on the beach:~~

~~a. During the sea turtle season (May 1 through October 31), special event activities including construction shall be confined to daylight hours and shall not begin before 8:00 a.m. or before completion~~

~~of daily monitoring for turtle nesting activity by a FWC authorized marine turtle permit holder, whichever occurs first. However, no activity shall take place until after a daily sea turtle nest survey is conducted as indicated below.~~

~~b. During sea turtle nesting season (May 1 through October 31), the permittee is responsible for ensuring that a daily sea turtle nest survey, protection, and monitoring program is conducted throughout the permitted special events area. Such surveys and associated conservation measures shall be completed after sunrise and prior to the commencement of any activity. The sea turtle survey, protection, and monitoring program shall be conducted only by individuals possessing appropriate expertise in the protocol being followed and a valid F.A.C. Rule 68 E permit issued by the FWC. To identify those individuals available to conduct marine turtle nesting surveys within the permitted area, please contact the FWC, Bureau of Imperiled Species Management, at (850) 922 4330.~~

~~e. All turtle nests will be marked with wooden stakes, flagging tape, and a FWC sea turtle nest sign. No activities (including the placement of equipment or the storage of materials) are allowed within 30 feet of the marked nest. The permittee shall ensure that all personnel are briefed on the types of marking utilized and be able to easily contact the individual responsible for the nest survey to verify any questionable areas.~~

~~(5) A violation of the special or standard conditions will automatically invalidate the permit. Periodic compliance inspections will be conducted to insure compliance with the permit conditions and this article.~~

~~(6) The release of balloons is prohibited in accordance with F.S. § 372.995, except as permitted by that statute.~~

Section 5. Section 34-2 of Chapter 34 of the Town of Fort Myers Beach Land Development Code is hereby amended to read as follows:

**Sec. 34-2. - Definitions**

\*\*\*

*Garage sale or yard sale* mean an informal sale of used household or personal articles, such as furniture, tools, or clothing, held on the seller's own premises, or conducted by several people on one of the sellers' own premises. ~~Garage and yard sales are limited to not more than one week in duration, with sales limited to two garage or yard sales per year.~~ See *Residential accessory use*.

\*\*\*

*Use, temporary* means a use or activity ~~which~~ that is permitted only for a limited time, which will not inhibit the usual flow of pedestrian or vehicular travel on public rights-of-way, subject to specific regulations and permitting procedures. See article IV, division 37 of this chapter.

\*\*\*

Section 6. Section 34-2441 of Chapter 34 of the Town of Fort Myers Beach Land Development Code is hereby repealed:

**~~Sec. 34-2441.—Special events defined.~~**

~~A special event is any social, commercial, or fraternal gathering for the purpose of entertaining, instructing, viewing a competition, or for any other reason that would assemble an unusual concentration of people in one location. Specifically excluded from this definition are any gatherings formed and/or sponsored by any recognized religion or religious society. Sec. 34-2442.—Permits for special events.~~

~~(a) The Town of Fort Myers has established a permitting process for special events through Ordinances Nos. 98-01 and 00-16 and any future amendments.~~

~~(b) No person, corporation, partnership, or other entity shall advertise or sell or furnish tickets for a special event within the boundaries of the town, and no such event shall be conducted or maintained, unless and until that person or entity has obtained a permit from the town to conduct such event.~~

~~(c) Special events on the beach shall also comply with § 14-11 of this code.~~

Section 7. Section 34-3041 of Chapter 34 of the Town of Fort Myers Beach Land Development Code is hereby amended to read as follows:

**Sec. 34-3041. - Generally.**

(a) *Purpose.* The purpose of this subdivision is to specify regulations applicable to certain temporary uses which, because of their impact on surrounding land uses, require a temporary use permit.

(b) *Permit required.* No temporary use shall be established until a temporary use permit has been obtained from the director in accordance with the requirements of § 34-3050 this chapter. ~~Some temporary uses may qualify as special events that are regulated by Ordinance No. 98-01 as amended, or may qualify as special events on or near the beach, which are further regulated by § 14-11 of this code. Ch. 22.~~ A temporary use permit must be obtained for the following uses in compliance with these requirements:

(1) Christmas tree sales lots for up to 45 days prior to the holiday;

(2) Holiday, seasonal or annual sales lots for up to 30 days;

(3) Temporary promotional activities involving the sale and promotion of goods and services available at a business on the premises, subject to the following:

a. Activities that obstruct private parking or are held on the adjacent public sidewalk may be held for up to three consecutive days up to three times per calendar year.

b. Activities that do not obstruct parking and are held on private property may be held for up to ten consecutive days up to three times per calendar year.

c. Outdoor display of merchandise, not associated with a temporary promotional activity shall be in compliance with LDC Sec 34-678 Outdoor display and sales of merchandise and food.

~~(4) Garage sales or yard sales, with a maximum of two permits per parcel per year for a maximum of three consecutive days. Garage sale permits will be free of charge.~~

(5) Construction projects which require storage, parking areas, construction trailers, site screening and/or any other temporary activities during construction of the project and which terminate upon completion of the project.

(6) Temporary wireless communications facilities, as are necessary to meet demand, for up to six (6) months.

(7) One-day permits for consumption of alcohol on-premises associated with a temporary event.

(8) Other similar uses of a temporary nature.

(c) *Lighting.* No permanent or temporary lighting shall be installed without an electrical permit and inspection.

(d) *Time limit.*

(1) All temporary uses shall be confined to the dates specified by the director, on the temporary use permit; provided, however, that:

a. ~~Except as provided for seasonal parking lots in §§ 34-2022 of this chapter and for other uses where specifically provided in §§ 34-3043 through 34-3048 of this chapter, the director may not authorize a temporary use for more than 30 days; and~~ If no time period is specified on the temporary use permit, then the temporary use permit will expire and the use must be abated within 30 days from the date of issuance.

b. ~~If no time period is specified on the temporary use permit, then the temporary use permit will expire and the use must be abated within 30 days from the date of issuance.~~

(2) A temporary use permit may not be renewed or reissued to the same applicant or on the same premises for a similar use more than three (3) times per year. ~~for a period of six months from the date of expiration of the previous temporary use permit.~~

(e) *Hours of operation.* Hours of operation shall be confined to those specified in the permit.

(f) *Cleanup.* The site shall be cleared of all debris at the end of the temporary use and all temporary structures shall be removed within 48 hours after termination of the use. A cash bond of a minimum of \$25.00 and not to exceed \$5,000.00 or a signed contract with a disposal firm may be required as a part of the application for a temporary use permit to ensure that the premises will be cleared of all debris during and after the event.

(g) ~~*Traffic control.* Traffic control as may be required by the county sheriff's department and the county department of transportation shall be arranged and paid for by the applicant. Signs. A sign permit may be required for any proposed signs.~~

(h) ~~*Damage to public right of way.* A cash bond of a minimum of \$25.00 and not to exceed \$5,000.00 may be required to ensure the repair of any damage resulting to any public right of way as a result of the event. In lieu of. Any proposed use, which exceeds the criteria or regulations of this code subdivision, may apply for a Special Event permit.~~

Section 8. Sections 34-3042, 34-3043, 34-3044, 34-3045, 34-3046, 34-3047, 34-3048, and 34-3055 of Chapter 34 of the Town of Fort Myers Beach Land Development Code are hereby repealed:

~~**Sec. 34-3042. Carnivals, fairs, circuses and amusement devices.**~~

(a) ~~Location of amusement devices and other structures. Refer to §§ 34-2142(a) and (b) above, for setback requirements.~~

(b) ~~Off street parking. Refer to § 34-2020(d)(3)g. of this chapter for off street parking requirements.~~

(c) ~~Hours of operation. The hours of operation shall be limited to 10:00 a.m. to 10:00 p.m., unless otherwise extended by the director in writing.~~

(d) ~~Special event permit. In addition to a temporary use permit, a carnival, fair, circus, or amusement device, or other event may be subject to the provisions of the town's Special Events Ordinance No. 98-01, as amended (see also division 34 of this article). Ch. 22.~~

~~**Sec. 34-3043. Christmas tree sales.**~~

(a) ~~Christmas tree sales may be permitted in any commercial district, provided that:~~

~~(1) No parking lot required for another use shall be used for display of trees; and~~

~~(2) Temporary off street parking for at least five vehicles shall be provided utilizing an existing or approved parking lot entrance or driveway.~~

~~(b) The maximum length of time for display and open lot sales shall be 45 days.~~

~~**Sec. 34-3044.— Temporary contractor's office and equipment storage shed.**~~

~~A contractor's office or construction equipment shed may be permitted in any district where use is incidental to an ongoing construction project with an active building permit or development order. Such office or shed shall not contain sleeping or cooking accommodations. The contractor's office and construction shed shall be removed within 30 days of the date of final inspection for the project.~~

~~**Sec. 34-3045.— Alcoholic beverages.**~~

~~Temporary one-day permits for the service of alcoholic beverages may be permitted in accordance with § 34-1264(d) of this chapter.~~

~~**Sec. 34-3046.— Temporary use of mobile home.**~~

~~(a) Rehabilitation or construction of residence following disaster.~~

~~(1) When fire or disaster has rendered a single-family residence unfit for human habitation, the temporary use of a mobile home or recreational vehicle located on the single-family lot during rehabilitation of the original residence or construction of a new residence may be permitted subject to the regulations set out in this section.~~

~~(2) The maximum duration of the use shall be 18 months after the date the President of the United States issues a disaster declaration. If no disaster declaration is issued, the maximum duration of the use is six months. The director may extend the permit once for a period not to exceed 60 days in the event of circumstances beyond the control of the owner. Application for an extension shall be made prior to expiration of the original permit.~~

~~(b) Rehabilitation or construction of damaged business or commercial uses following disaster.~~

~~(1) Business or commercial uses damaged by a major or catastrophic disaster that are necessary for the public health and safety or that will aid in restoring the community's economic base may be permitted to use a mobile home or similar type structure to carry out their activities until the damaged structure(s) is rebuilt or replaced according to applicable development or redevelopment regulations.~~

~~(2) The maximum duration of the temporary use is nine months after the date the President of the United States issues a disaster declaration. If no disaster declaration is issued, the maximum duration of the use is six months. The director may extend the permit once for a period not to exceed 60 days in the event of circumstances beyond the control of the owner. Application for an extension shall be made prior to expiration of the original permit.~~

~~(e) Conditions for use.~~

~~(1) Required water and sanitary facilities must be provided.~~

~~(2) The mobile home or recreational vehicle shall be removed from the property within ten days after the certificate of occupancy is issued for the new or rehabilitated residence, business, or commercial use, or upon expiration of the temporary use permit, whichever occurs first.~~

~~**Sec. 34-3047. Temporary telephone distribution equipment.**~~

~~Telephone distribution equipment may be granted a temporary use permit during planning and construction of permanent facilities, provided that:~~

~~(1) The equipment is less than six feet in height and 300 cubic feet in volume; and~~

~~(2) The maximum length of the use shall be six months, but the director may extend the permit once for a period not to exceed six additional months in the event of circumstances beyond the control of the telephone company.~~

~~Application for an extension shall be made at least 15 days prior to expiration of the original permit.~~

~~**Sec. 34-3048. Ancillary temporary uses in parking lots.**~~

~~(a) The following ancillary temporary uses may be permitted in parking lots upon application and issuance of a temporary use permit (see § 34-3050 of this chapter):~~

- ~~(1) Seasonal promotions.~~
- ~~(2) Sidewalk or parking lot sales.~~
- ~~(3) Fairs and carnivals (see § 34-3042 of this chapter).~~
- ~~(4) Tent sales.~~
- ~~(5) Flea markets by nonprofit organizations.~~
- ~~(6) Welcome stations in accordance with § 34-3051 of this chapter.~~

~~(b) In approving a temporary use permit, the director shall require that the area of the lot to be used is clearly defined and that the use will not obstruct pedestrian and vehicular movements to portions of the lot not so used.~~

~~**Sec. 34-3055. Special events.**~~

~~(a) A special event is any social, commercial, or fraternal gathering for the purpose of entertaining, instructing, viewing a competition, or for any other reason that would assemble an unusual concentration of people in one location.~~

~~(b) See division 34 of this chapter for a summary of permitting rules for special events.~~

Section 9. The Town Council intends that the provisions of this ordinance be made a part of the Fort Myers Beach Code of Ordinances, and that sections herein may be renumbered or re-lettered and the words or phrases herein may be changed to accomplish codification; regardless, typographical errors that do not affect intent may be corrected with notice to and authorization of the Town Manager without further process.

Section 10. 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 shall apply.

Section 11. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason, declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision will not affect the validity of the ordinance as a whole, or any part thereof, other than the part so declared.

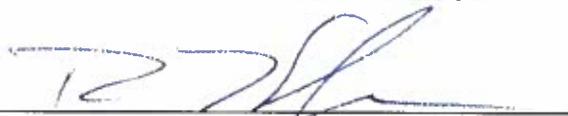
Section 12. This ordinance shall become effective upon adoption by the Town Council.

The foregoing Ordinance was adopted by the Town Council upon a motion by Council Member Atterholt and seconded by Council Member Allers, and upon being put to a roll call vote, the result was as follows:

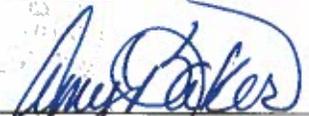
Raymond P. Murphy, Mayor	Excused
Rexann Hosafros, Vice Mayor	Aye
Dan Allers, Council Member	Aye
Jim Atterholt, Council Member	Aye
Bill Veach, Council Member	Aye

ADOPTED this 19<sup>th</sup> day of January, 2021 by the Town Council of the Town of Fort Myers Beach, Florida.

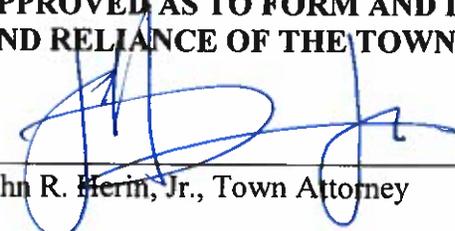
**TOWN OF FORT MYERS BEACH**

  
\_\_\_\_\_  
Rexann Hosafros, Vice Mayor

**ATTEST:**

  
\_\_\_\_\_  
Amy Baker, Town Clerk

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

  
\_\_\_\_\_  
John R. Herin, Jr., Town Attorney

This Ordinance was filed in the Office of the Town Clerk on this 21 day of January, 2021.