

TOWN OF FORT MYERS BEACH, FLORIDA

ORDINANCE NO. 98-14

AN ORDINANCE ENTITLED “ADOPTION OF THE FORT MYERS BEACH COMPREHENSIVE PLAN,” REPLACING IN ITS ENTIRETY THE TRANSITIONAL COMPREHENSIVE PLAN OF THE TOWN OF FORT MYERS BEACH, FLORIDA, IN ORDER TO CONTROL FUTURE LAND USE, GUIDE PUBLIC FACILITIES, AND PROTECT NATURAL RESOURCES PURSUANT TO THE LOCAL GOVERNMENT COMPREHENSIVE PLANNING AND LAND DEVELOPMENT REGULATION ACT (CHAPTER 163, PART II, *FLORIDA STATUTES*). THIS COMPREHENSIVE PLAN IS CONTAINED WITHIN A SINGLE VOLUME THAT INCLUDES:

CHAPTER 1, INTRODUCTION

CHAPTER 2, “ENVISIONING TOMORROW’S FORT MYERS BEACH”

CHAPTER 3, COMMUNITY DESIGN ELEMENT

CHAPTER 4, FUTURE LAND USE ELEMENT

CHAPTER 5, COASTAL MANAGEMENT ELEMENT

CHAPTER 6, CONSERVATION ELEMENT

CHAPTER 7, TRANSPORTATION ELEMENT

CHAPTER 8, UTILITIES ELEMENT

CHAPTER 9, STORMWATER MANAGEMENT ELEMENT

CHAPTER 10, RECREATION ELEMENT

CHAPTER 11, CAPITAL IMPROVEMENTS ELEMENT

CHAPTER 12, HOUSING ELEMENT

CHAPTER 13, HISTORIC PRESERVATION ELEMENT

CHAPTER 14, INTERGOVERNMENTAL COORDINATION ELEMENT

CHAPTER 15, PROCEDURES AND MONITORING

THIS ORDINANCE ALSO DEFINES ITS PURPOSE AND INTENT; IDENTIFIES THE TITLE AND CONTENTS OF THE NEW COMPREHENSIVE PLAN; REPEALS THE TRANSITIONAL COMPREHENSIVE PLAN; AND PROVIDES FOR APPLICABILITY, CONFLICTS, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, Chapter 166, *Florida Statutes*, empowers the Town Council of the Town of Fort Myers Beach to prepare and enforce a comprehensive plan for the future development of the town; and

WHEREAS, Sections 163.3161 through 163.3217, *Florida Statutes*, empower and require the Town Council to: (a) plan for the town’s future development and growth; (b) adopt a comprehensive plan to guide the future growth and development within the town; (c) implement the adopted comprehensive plan through an appropriate land development code; and (d) establish and maintain appropriate administrative procedures to carry out the plan and code; and

WHEREAS, the Fort Myers Beach Local Planning Agency has been established pursuant to Fort Myers Beach Ordinances 96-2 and 96-25; and

WHEREAS, public participation procedures for the new comprehensive plan were established by Fort Myers Beach Resolution 97-5; and

WHEREAS, the Fort Myers Beach Local Planning Agency, empowered by the above-cited laws and ordinances, prepared a new comprehensive plan for the Town of Fort Myers Beach to replace the transitional comprehensive plan adopted pursuant to the Town Charter to more adequately address the unique challenges presented by future growth in the town; and

WHEREAS, the Fort Myers Beach Local Planning Agency, in the preparation of the new comprehensive plan, has performed necessary research and studies; conducted three public workshops; participated in five joint workshops with the Town Council; held twice-monthly public meetings to review progress on the new plan; effectively provided for full public participation; provided notice to real property owners; broadly disseminated proposals and alternatives; provided opportunities for written and verbal comments, open discussion, and consideration and response to public and official comments; and prepared supporting data and analysis documentation as background and justification for the new comprehensive plan's goals, objectives, and policies; and

WHEREAS, pursuant to Section 163.3174, the Fort Myers Beach Local Planning Agency conducted a formal public hearing, with due notice having been provided, and having considered all comments received during the public hearing, recommended on April 21, 1998, that the Town Council adopt the new Fort Myers Beach Comprehensive Plan; and

WHEREAS, pursuant to Section 163.3184, the Fort Myers Beach Town Council conducted a formal public hearing beginning on May 18, 1998, and continuing on May 19 and 21, with due public notice having been provided, to obtain public comment; and having considered all written and oral comments received during this public hearing, and having provided for necessary revisions, on May 21, 1998, voted to transmit the proposed comprehensive plan in its entirety to the state land planning agency (the Department of Community Affairs) for review and comment; and

WHEREAS, the Department of Community Affairs, by letter dated August 14, 1998, forwarded its objections, recommendation, and comments on the proposed comprehensive plan; and

WHEREAS, pursuant to Section 163.3184, the proposed comprehensive plan was revised in view of comments from the Department of Community Affairs; and

WHEREAS, pursuant to Section 163.3184, the Town Council of the Town of Fort Myers Beach held a second public hearing on December 21, 1998, on the revised version of the comprehensive plan, with due public notice having been provided, and considered all oral and written comments, including those of the Local Planning Agency and the Department of Community Affairs; and

WHEREAS, in the exercise of its authority, the Town Council of the Town of Fort Myers Beach has determined it necessary and desirable to adopt in its entirety the new Fort Myers Beach Comprehensive Plan in order to preserve and enhance present advantages; encourage the most appropriate use of land, water, and natural resources; overcome present handicaps; and deal effectively with future problems that may result from the use and development land within the Town of Fort Myers Beach.

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

SECTION ONE: PURPOSE AND INTENT

This ordinance is enacted to carry out the purpose and intent of, and exercise the authority set out in, the Local Government Comprehensive Planning and Land Development Regulation Act, Sections 163.3161 through 163.3217 and Chapter 166, *Florida Statutes*, as amended.

SECTION TWO: TITLE OF NEW COMPREHENSIVE PLAN

The new comprehensive plan shall be entitled the "Fort Myers Beach Comprehensive Plan."

SECTION THREE: CONTENTS OF THE FORT MYERS BEACH COMPREHENSIVE PLAN

(a) The Town of Fort Myers Beach shall publish a single-volume document that contains the adopted portions of the Fort Myers Beach Comprehensive Plan and much of the extensive research upon which this plan was based. This volume shall be organized into 15 chapters, as follows:

- Chapter 1, Introduction,*
- Chapter 2, "Envisioning Tomorrow's Fort Myers Beach"*
- Chapter 3, Community Design Element*
- Chapter 4, Future Land Use Element*
- Chapter 5, Coastal Management Element*
- Chapter 6, Conservation Element*
- Chapter 7, Transportation Element*
- Chapter 8, Utilities Element*
- Chapter 9, Stormwater Management Element*
- Chapter 10, Recreation Element*
- Chapter 11, Capital Improvements Element*
- Chapter 12, Housing Element*
- Chapter 13, Historic Preservation Element*
- Chapter 14, Intergovernmental Coordination Element*
- Chapter 15, Procedures and Monitoring*

(b) Only the following specific portions of this volume are being formally adopted through this ordinance as its new comprehensive plan under Sections 163.3161 through 163.3217, *Florida Statutes*, as amended:

- All of Chapters 1, 2, and 15.*
- All goals, objectives, and policies found in Chapters 3 through 14.*
- The "Future Land Use Map" (Figure 16 in the Future Land Use Element).*
- The "Future Transportation Map" (Figure 18 in the Transportation Element).*
- The five-year schedule of capital improvements (Table 11-7 in the Capital Improvements Element)*

(c) The published volume shall provide, in its opening chapter, this same description of which portions of the volume have been formally adopted by the town.

(d) The published volume is incorporated by this reference as an integral part of this ordinance and it shall be placed on file with the Town Clerk. It shall remain available for inspection by the public at Town Hall, and a copy shall be placed at the reference desk of the Fort Myers Beach Public Library. Additional copies shall also be sold at Town Hall for a reasonable publication charge.

SECTION FOUR: REPEAL OF TRANSITIONAL COMPREHENSIVE PLAN

(a) Section 15.07 of the Town Charter adopted, as a transitional comprehensive plan, the then-existing Lee County Comprehensive Plan. By virtue of this ordinance, the Town of Fort Myers will no longer recognize the Lee County Comprehensive Plan as its transitional comprehensive plan, and that plan shall be of no effect as to any actions occurring after the effective date of this ordinance.

(b) The Town Charter also adopted the then-existing Lee County land development regulations as its transitional land development regulations. This ordinance does not repeal or replace those transitional land development regulations, although such replacement will occur in the near future by separate ordinance. However, the explicit terms of the new comprehensive plan will supersede certain land development regulations by virtue of being more restrictive. Conflicts shall be resolved by through the procedures found in Chapter 15 of the new Fort Myers Beach Comprehensive Plan.

SECTION FIVE: APPLICABILITY AND EFFECT

The applicability and effect of the Fort Myers Beach Comprehensive plan shall be as provided by its specific terms, by the Local Government Comprehensive Planning and Land Development Regulation Act, Sections 163.3161 through 163.3217, *Florida Statutes*, and by this ordinance. No public or private development shall be permitted except in conformity with the Fort Myers Beach Comprehensive Plan, and all land development regulations and development orders shall be consistent with this plan.

SECTION SIX: 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 SEVEN: CODIFICATION AND SCRIVENER'S ERRORS

The Town Council anticipates that this comprehensive plan will be revised in the future through amendments adopted pursuant to state law. Sections of this comprehensive may be renumbered or relettered and typographical and grammatical errors can be corrected where authorized by the Town Manager without requiring a public hearing, provided the changes do not affect the intent or application of this comprehensive plan. Any such changes will be reflected in the town's next publication of this comprehensive plan or portion thereof.

SECTION EIGHT: SEVERABILITY

It is the legislative intent that if any section, subsection, sentence, clause, map, goal, objective, or policy of this ordinance is held to be invalid, unenforceable, or unconstitutional by any court of competent jurisdiction, such portion will be deemed a separate provision, and the remaining provisions of this ordinance will not be affected. It is the legislative intent of the Town Council that this ordinance would have been adopted had such unconstitutional provision not be included therein.

SECTION NINE: EFFECTIVE DATE

This ordinance shall become effective on January 1, 1999.

THE FOREGOING ORDINANCE was offered by Councilmember Cereceda who moved its adoption. The motion was seconded by Councilmember Murphy and, being put to a vote, the vote was as follows:

Anita Cereceda	<u>aye</u>
Daniel Hughes	<u>aye</u>
John Mulholland	<u>aye</u>
Garr Reynolds	<u>no</u>
Ray Murphy	<u>aye</u>

DULY PASSED AND ADOPTED THIS 21st DAY OF DECEMBER, 1998

ATTEST:

By: Manley Seal-George
Town Clerk

Town Council of Fort Myers Beach, Florida
By: [Signature]
Mayor

APPROVED AS TO FORM BY:
[Signature]
Town Attorney