

**TOWN OF FORT MYERS BEACH, FLORIDA**

**ORDINANCE NO. 01-07**

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH ENTITLED "SECOND AMENDMENT TO THE FORT MYERS BEACH COMPREHENSIVE PLAN"; ESTABLISHING PURPOSE AND INTENT; AMENDING CHAPTER 4, FUTURE LAND USE ELEMENT; AMENDING CHAPTER 11, CAPITAL IMPROVEMENTS ELEMENT; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING 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, in the exercise of this authority the Town Council had adopted an entirely new Fort Myers Beach Comprehensive Plan through Ordinance No. 98-14; and

WHEREAS, in the further exercise of this authority the Town Council has adopted a first set of amendments to the Fort Myers Beach Comprehensive Plan through Ordinance No. 00-15; and

WHEREAS, the Town Council has determined that certain additional amendments to that plan may be needed and has directed the necessary research and analysis in support thereof; and

WHEREAS, in consideration of these amendments, the Fort Myers Beach Local Planning Agency held public hearings on April 17 and May 8, 2001, and the Town Council held its transmittal public hearing on June 25, 2001, at which time it voted to transmit two of the three proposed amendments for review by state, regional, and local agencies; and

WHEREAS, the Florida Department of Community Affairs, by letter dated August 16, 2001, waived the formal review process due to the minor nature of these two amendments; and

WHEREAS, pursuant to Section 163.3184, the Town Council scheduled its first public hearing to consider this ordinance on September 10, 2001 and its second and final public hearing on this ordinance and these amendments on September 24, 2001.

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

**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: AMENDMENT TO CHAPTER 4, FUTURE LAND USE ELEMENT**

The Fort Myers Beach Comprehensive Plan, as adopted through Ordinance 98-14 and previously amended through Ordinance 00-15, is hereby amended further by modifying Policy 4-C-6 as follows, with new language underlined. This amendment is in response to Application 2001-2-TEXT.

**AMENDED POLICY 4-C-6: MOTEL DENSITIES:** The Land Development Code shall specify equivalency factors between motel rooms and full dwelling units. These factors may vary based on size of motel room and on land-use categories on the Future Land Use Map. They may vary between a low of one motel room and a high of three motel rooms for each dwelling unit. (These factors would apply only where motels are already permitted.) In order to implement the 1999 Old San Carlos Boulevard / Crescent Street Master Plan that encourages mixed-use buildings with second and third floors over shops on Old San Carlos, hotel rooms may be substituted for otherwise allowable office space in that situation

and location only without using the equivalency factors that apply everywhere else in the town. This alternate method for capping the number of hotel rooms applies only to properties between Fifth to First Streets that lie within 200 feet east and west of the centerline of Old San Carlos Boulevard. Hotel rooms built under this alternate method must have at least 250 square feet per rentable unit, and under no circumstances shall buildings they are located in exceed four stories (with the ground level counted as the first story).

**SECTION THREE: AMENDMENT TO CHAPTER 11, CAPITAL IMPROVEMENTS ELEMENT**

The Fort Myers Beach Comprehensive Plan, as adopted through Ordinance 98-14 and previously amended through Ordinance 00-15, is hereby amended further by deleting the five-year schedule of capital improvements (Table 11-7, found on Page 11-22) and by replacing it with a new Table 11-7 as contained in Exhibit A of this ordinance. This amendment is in response to Application 2001-1-TEXT.

**SECTION FOUR: 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 FIVE: 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 SIX: EFFECTIVE DATE**

This ordinance shall become effective immediately upon adoption. However, the comprehensive plan amendments contained herein shall not take effect until the date a final order is issued by the Florida Department of Community Affairs or the Administration Commission finding the amendments to be in compliance in accordance with Chapter 163.3184, *Florida Statutes*.

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

Howard Rynearson	AYE
Daniel Hughes	AYE
Terry Cain	AYE
Garr Reynolds	NAY
Ray Murphy	AYE

**DULY PASSED AND ADOPTED THIS 24<sup>th</sup> DAY OF SEPTEMBER, 2001**

ATTEST:

By: 

Town Clerk

Town Council of Fort Myers Beach, Florida

By: 

Mayor

APPROVED AS TO FORM BY:

  
Town Attorney

# EXHIBIT A

**Table 11-7 — Revised Five-Year Schedule of Capital Improvements, FY 00/01 to 04/05<sup>1</sup>**

	FY 00/01 (Budgeted)	FY 01/02 (Projected)	FY 02/03 (Projected)	FY 03/04 (Projected)	FY 04/05 (Projected)
<b>TRANSPORTATION CAPITAL IMPROVEMENTS:</b>					
Transportation/drainage maintenance, etc. <sup>2</sup>	\$300,000	\$100,000	\$50,000	\$1,250,000	\$100,000
Traffic calming (Connecticut Street)	\$0	\$0	\$0	\$0	\$100,000
Estero Boulevard streetscaping	\$400,000	\$400,000	\$0	\$250,000	\$250,000
“Hidden Paths” walking and biking system	\$0	\$0	\$0	\$0	\$0
<b>Total of proposed annual expenditures:</b>	<b>\$700,000</b>	<b>\$500,000</b>	<b>\$50,000</b>	<b>\$1,500,000</b>	<b>\$450,000</b>
Anticipated annual transportation revenue:	\$722,100	\$600,000	\$600,000	\$600,000	\$600,000
Anticipated year-end transportation reserves: <sup>3</sup>	\$2,506,707	\$2,606,707	\$3,156,707	\$2,256,707	\$2,406,707
<b>NON-TRANSPORTATION CAPITAL IMPROVEMENTS:</b>					
Office equipment	\$20,000	\$0	\$0	\$0	\$0
Mound House capital improvements	\$100,000	\$100,000	\$0	\$0	\$0
Times Square improvements <sup>4</sup>	\$25,000	\$0	\$0	\$0	\$0
Public docks	\$30,000	\$30,000	\$0	\$0	\$0
Matanzas Harbor plan	\$30,000	\$0	\$0	\$0	\$0
Beach renourishment	\$550,000	\$500,000	\$100,000	\$100,000	\$100,000
Land acquisition, Gulf Park	\$0	\$0	\$0	\$0	\$0
Community swimming pool improvements	\$30,000	\$0	\$50,000	\$0	\$0
Neighborhood landscaping, matching funds	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000
Bay Oaks	\$100,000	\$0	\$0	\$0	\$0
<b>Total of proposed annual expenditures:</b>	<b>\$895,000</b>	<b>\$640,000</b>	<b>\$160,000</b>	<b>\$110,000</b>	<b>\$110,000</b>
Anticipated annual non-transportation revenue:	\$678,000	\$640,000	\$160,000	\$110,000	\$110,000
Anticipated year-end non-transportation reserves: <sup>5</sup>	\$23,348	\$23,348	\$23,348	\$23,348	\$23,348
<b>DOWNTOWN REDEVELOPMENT AGENCY (DRA) BUDGET:</b>					
Phase II Times Square streetscaping	\$95,000	unknown	unknown	unknown	unknown
Old San Carlos/Crescent improvements	\$70,000	unknown	unknown	unknown	unknown
Transit improvements (tram service)	\$0	unknown	unknown	unknown	unknown
Outside legal/planning services	\$25,000	unknown	unknown	unknown	unknown
<b>Total of proposed annual expenditures:</b>	<b>\$190,000</b>	unknown	unknown	unknown	unknown

<sup>1</sup> This schedule is a summary from the adopted budget for Fiscal Year 2000/2001; further details on revenues and expenditures are available in that document.

<sup>2</sup> These items are routine recurring maintenance, including periodic road resurfacing (tentatively scheduled for FY 03/04).

<sup>3</sup> Initial transportation reserves were \$2,484,607.

<sup>4</sup> This item is funded with the remainder of a \$200,000 state tourism grant.

<sup>5</sup> Initial non-transportation reserves were \$240,348.