

## **ORDINANCE No. 05-26**

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, PROVIDING FOR THE CREATION OF A COMMUNITY WORK PLAN TO QUALIFY THE TOWN AS A TREE CITY, USA, UNDER NATIONAL ARBOR DAY FOUNDATION STANDARDS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the National Arbor Day Foundation has established the Tree City USA program with particular guidelines for incorporated municipalities to qualify as a Tree City; and

**WHEREAS**, the Town of Fort Myers Beach seeks to qualify for Tree City USA designation pursuant to these National Arbor Day Foundation guidelines in order to advance the public health, safety, and welfare of its citizens; and

**WHEREAS**, the Town of Fort Myers Beach is required, pursuant to these National Arbor Day Foundation guidelines, to have a community work plan for the protection, preservation, and replacement of trees and other native vegetation and an entity that is responsible for developing that work plan.

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

### **Section 1. Purpose and Intent.**

The purpose and intent of this Ordinance is to promote the public health, safety, and general welfare of the citizens of the Town of Fort Myers Beach; to provide additional protection of existing trees; to promote the preservation and replacement of existing trees; and to discourage the indiscriminate removal of trees, thereby establishing a more natural and amenable human environment. This Ordinance authorizes the Town to augment its existing land development regulations regarding the planting, maintenance, and removal of trees in the street rights-of-way and other public properties of the Town, removal of trees and shrubs that endanger the public safety, and to provide for ancillary responsibility to the Department of Community Development to implement the provisions of this Ordinance.

## **Section 2. Responsibility for Implementation of Ordinance**

The Department of Community Development will be responsible for implementing the provisions of this Ordinance and is deemed to be the Forestry Department for the purposes of the National Arbor Day Foundation guidelines.

### **(a) *Duties and Responsibilities.***

(1) The Department of Community Development will develop a work plan with the following elements:

- a. Guidelines regarding placement, spacing and clustering of trees on public property;
- b. Guidelines regarding handling of destructive or communicable disease or other pestilence that endangers the growth or health of plants, threatens to spread disease or insect infestation, or creates or perpetuates any condition that is a public nuisance;
- c. Guidelines for issuance of arbor permits;
- d. Guidelines for tree protection during construction;
- e. Guidelines for administration and enforcement of the work plan;
- f. Guidelines regarding reasonably related additional duties and responsibilities for implementation of this ordinance; and
- g. Guidelines regarding ancillary responsibilities to assist in implementation of the work plan.

(2) The work plan will be submitted to the Local Planning Agency for review and recommendations before its submission to the Town Council. Upon Town Council approval of such work plan, it will be codified in the Land Development Code of the Town of Fort Myers Beach.

**Section 3. Conflict.** Any ordinance or part that is in conflict with this Ordinance or any part is hereby repealed to the extent of the conflict.

**Section 4. Severability.** If any one of the provisions of this ordinance should be held contrary to any express provision of law or contrary to the policy of express law, although not expressly prohibited, or against public policy, or shall for any reason whatsoever be held as invalid, then such provision shall be null and void and shall be deemed separate from the remaining provisions of this ordinance, and in no way affect the validity of all other provisions of this ordinance.

**Section 5. Effective Date.** This Ordinance takes effect immediately upon its adoption.

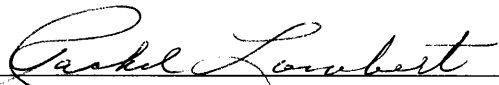
**ENACTED** by the Town Council of the Town of Fort Myers Beach, Florida, at its meeting on the 5<sup>th</sup> day of December 2005.

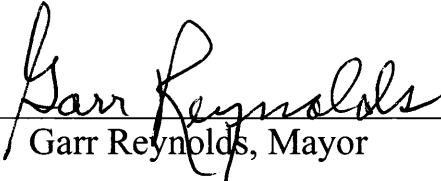
The foregoing ordinance was enacted by the Town Council upon a motion by Council Member Don Massucco and seconded by Council Member Dennis Boback ; upon being put to a vote, the result was as follows:

Dennis Boback	<u>Aye</u>
Don Massucco	<u>Aye</u>
Charles Meador	<u>Aye</u>
Garr Reynolds	<u>Aye</u>
William E. Shenko, Jr.	<u>Aye</u>

DULY PASSED AND ENACTED this 5<sup>th</sup> day of December, 2005.

ATTEST: TOWN OF FORT MYERS BEACH

By:   
Rachel Lambert, Interim Town Clerk

By:   
Garr Reynolds, Mayor

Approved as to form by:

  
Anne Dalton, Town Attorney