

ORDINANCE 06-13

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH

REPEALING TOWN ORDINANCE 96-13 REGARDING LOT MOWING; REPEALING TOWN ORDINANCE 97-11 REGARDING REMOVAL OF NUISANCE ACCUMULATIONS; AMENDING REGULATIONS OF THE TOWN LAND DEVELOPMENT CODE CONTAINED IN CHAPTER 6, ARTICLE 1, PROPERTY MAINTENANCE CODES, TO ADD PROVISIONS REGARDING LOT MOWING, NUISANCE ACCUMULATIONS, SPECIAL ASSESSMENT LIEN PROCESS AND ACCESSORY STRUCTURES; DELETE REFERENCES TO ORDINANCES 96-13 AND 97-11, PROVIDING AUTHORITY; PROVIDING SEVERABILITY, REPEALING CLAUSE AND EFFECTIVE DATE

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

**SECTION 1. AUTHORITY.** This Ordinance is enacted pursuant to the provisions of Chapter 95-494, Laws of Florida, Chapters 163 and 166, Florida Statutes, and other applicable provisions of law.

**SECTION 2. REPEAL OF TOWN ORDINANCE 96-13.** Town Ordinance 96-13, known as the Town of Fort Myers Beach Lot Mowing Ordinance, is hereby repealed in its entirety.

**SECTION 3. REPEAL OF TOWN ORDINANCE 97-11.** Town Ordinance 97-11, known as the Town of Fort Myers Beach Removal of Nuisance Accumulations Ordinance, is hereby repealed in its entirety.

**SECTION 4. ADOPTION OF AMENDMENTS TO CHAPTER 6 OF THE LAND DEVELOPMENT CODE.** Chapter 6 of the Town of Fort Myers Beach Land Development Code is titled "MAINTENANCE CODES, BUILDING CODES, AND COASTAL REGULATIONS". Chapter 6 is hereby amended as shown in Exhibit A. Entirely new language is indicated with underlining. Language being repealed from the existing code is indicated with strike-throughs. Existing language being retained is either omitted entirely or is shown without underlining or strike-throughs. This ordinance amends the following sections of Chapter 6:

**Article I. Property Maintenance Codes.**

Section 6-1. Purpose and definitions.

Section 6-3. Exterior storage.

Section 6-5. Nuisances.

Section 6-9. Reserved. ~~Lot mowing.~~

Section 6-15 Accessory structures

**SECTION 5. 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 6. REPEALING CLAUSE.** All ordinances or parts thereof in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

**SECTION 7. EFFECTIVE DATE.** This ordinance shall become effective immediately upon its adoption.

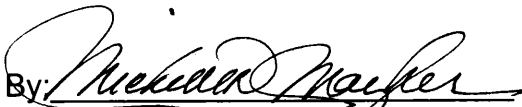
The foregoing ordinance was enacted by the Town Council upon a motion by Council Member Massucco and seconded by Council Member Reynolds and, upon being put to a vote, the result was as follows:

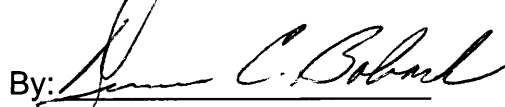
Dennis Boback, Mayor	aye
Don Massucco, Vice Mayor	aye
Charles Meador, Jr.	aye
Garr Reynolds	aye
William Shenko, Jr.	aye

DULY PASSED AND ENACTED this 19th day of June 2006.

ATTEST:

TOWN OF FORT MYERS BEACH

By:   
Michelle Mayher, Town Clerk

By:   
Dennis Boback, Mayor

Approved as to legal form by:

  
Anne Dalton, Town Attorney

EXHIBIT A  
FORT MYERS BEACH LAND DEVELOPMENT CODE

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CHAPTER 6 — MAINTENANCE CODES,  
BUILDING CODES, AND COASTAL REGULATIONS

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**Sec. 6-1. Purpose and Definitions.**

(a) The purpose of this division is to protect the comfort, health, repose, safety, economic value of the underlying or adjacent property and general welfare of the residents of the Town by:

- (1) establishing minimum property and building maintenance standards; and
- (2) providing for the abatement of nuisances affecting the general public.

(b) The maintenance and nuisance standards in this division are supplementary to standards that are found in other portions of this code and in other ordinances adopted by the Town of Fort Myers Beach.

(c) "Abandoned Property" means:

(1) all tangible personal property that does not have an identifiable owner and that has been disposed of on private property in a wrecked, inoperative or partially dismantled condition or that has no apparent intrinsic value to the rightful owner; or

(2) property that has been mislaid on private property but that is in a substantially operable, functional condition or has an apparent intrinsic value to the rightful owner.

(d) "Trash" means:

(1) any accumulation of animal, fruit or vegetable waste that is subject to decomposition, decay or putrefaction; or

(2) debris, garbage, lumber, sawdust or other waste materials; or

(3) material that does not meet other definitions set forth herein and that may have some real or perceived value to the owner or occupant of private property upon which it is located but that constitutes by its existence a nuisance in that it devalues the underlying or adjacent property, creates a public nuisance, nuisance per se, or attractive nuisance as defined by law, or threatens the public health, safety, or welfare.

(e) "Nuisance grasses and/or weeds" means grasses and/or weeds that are not regularly cared for and maintained and that exceed twelve (12) inches in height and/or underbrush or undergrowth or other noxious vegetation.

**Sec. 6-2. Exterior surfaces of buildings.**

*[No changes]*

### **Sec. 6-3. Exterior storage.**

(a) No temporary or permanent storage of materials or equipment ~~shall~~ will be allowed on any vacant parcel except in compliance with the regulations for the use of such property as set forth in ch. 34 of this code, or in conjunction with an active building permit.

(b) Equipment, materials, and furnishing not designed for use outdoors, such as automotive parts and tires, building materials, and interior furniture, may not be stored outdoors.

~~(c) Nuisance accumulations of trash or abandoned property are regulated by Fort Myers Beach Ordinance No. 97-11.~~

### **Sec. 6-4. Public rights-of-way and sidewalks.**

*[No changes].*

### **Sec. 6-5. Nuisances.**

(a) No person owning, leasing, operating, or having control of any premises within the town ~~shall~~ will maintain, keep, or permit any nuisance as described in this section.

(b) The existence of any of the following conditions or conduct is hereby declared to constitute a public nuisance:

(1) A condition or use that causes a substantial diminution of value of property in the vicinity of the condition or use.

(2) Buildings that are abandoned.

(3) Buildings that are boarded up, except when placed for temporary hurricane protection and removed within 30 days.

(4) Buildings that are partially destroyed and not rebuilt within a reasonable temporary period while repairs are being arranged;

(5) Partially construed building that are not completed within a customary construction period or for which building permits have expired.

(6) Any attractive nuisance dangerous to children such as excavations, untended and unfenced swimming pools, or abandoned or broken equipment or machinery.

(7) Overt blocking of drainage swales or pipes so as to cause flooding or adversely affect surrounding property.

(8) Excessive or untended accumulations of ~~debris or trash~~ or abandoned property, including scattered trash and litter that remains on commercial parking lots for a period longer than 24 hours. ~~See also Fort Myers Beach Ordinance No. 97-11.~~

(9) Outdoor storage on private property of boats or motor vehicles that are not affixed with a current registration decal.

(10) Accumulation of nuisance grasses and/or weeds.

~~(10)~~ (11) Any other condition or use that constitutes a nuisance to the public that is continually or repeatedly maintained, the abatement of which would be in the best interest of the health, safety and welfare of residents of the town.

**Sec. 6-6. Inoperative vehicles on public property.**

*[No changes]*

**Sec. 6-7. Noise.**

*[No changes]*

**Sec. 6-8. Required landscaping, buffers, and native vegetation.**

*[No changes]*

**Sec. 6-9. Lot mowing.**

~~Grass and weeds in excess of 16 inches in height are regulated by Fort Myers Beach Ordinance No. 96-13.~~

(a) It is the duty of every person to maintain their property so that nuisance grasses and/or weeds do not accumulate thereon. Such accumulations impair the economic welfare of property and contribute to fire hazards and/or health hazards within the town.

(b) The town will issue to the property owner of record a first notice of violation regarding the existence of nuisance grass and/or weeds on property. This will be issued via first-class mail or posting the property. The property owner of record must abate the nuisance within ten (10) days, after which time the director may instruct employees or contractors of the town to enter the property and abate the nuisance. The cost of such abatement will be levied as an assessment against the property. The director will prepare an assessment bill for the entire cost of abatement.

(c) Within five (5) days of receipt of the first notice of violation by mail or posting, the owner of the property may make a written request to the director for a hearing on the issue of whether the condition alleged in the notice does not exist or does not constitute a nuisance. Such hearing will be scheduled and conducted before the Special Magistrate as set forth elsewhere in this Code.

(d) Unless a hearing is requested and held as set forth in (c) above, the town will send a second notice, that may contain an invoice detailing any and all costs (including administrative costs) incurred by the town if the town abates the nuisance, along with a request for payment of these costs, to the property owner within thirty (30) days of the date of the first notice. In the event the amount set forth on this notice is not paid in full within thirty (30) days, an assessment lien indicating these costs, signed by the director will be placed against the property and recorded in the official records of Lee County, Florida. The lien will incorporate interest at the statutory rate on the unpaid balance of the assessment until the balance is paid in full.

**Sec. 6-10. to Sec. 6-14.**

*[No change]*

**Sec. 6-15 Accessory structures.**

All accessory structures, including detached garages, fences, walls, and seawalls, will be maintained in good repair and with structural soundness.

Sec. 6-16-6-30. Reserved.