

ORDINANCE No. 97- 9

AN ORDINANCE AMENDING THE TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE, PROVIDING AUTHORITY; DELETION OF ADDITIONAL PERMITTED HEIGHT WHEN INCREASED SETBACKS PROVIDED; AMENDMENT TO HEIGHT LIMITATIONS FOR SPECIAL AREAS; SEVERABILITY; EFFECT OF ORDINANCE 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, Chapter 166, Florida Statutes, and other applicable provisions of law.

SECTION 2. SECTION 34-2174. Additional permitted height when increased setbacks provided, of the "Town of Fort Myers Beach Land Development Code" is deleted in its entirety as follows:

~~Sec. 34-2174. Additional permitted height when increased setbacks provided.~~

~~—(a) Subject to conditions set forth in section 34-2175, any structure may be permitted to exceed the height limitations specified by the zoning district regulations in which the property is located provided:~~

~~—(1) Every required street setback is increased by one half foot for every one foot by which the structure exceeds the specified height limitation.~~

~~—(2) Every required side setback is increased by one half foot for every one foot by which the structure exceeds the specified height limitation.~~

~~—(3) Every required rear setback shall be increased by one half foot for every one foot by which the structure exceeds the specified height limitation.~~

~~—(b) In any zoning district which does not specify a maximum height limitation, the increase to setbacks stated in this section shall apply to any building or structure exceeding 35 feet in height.~~

SECTION 3. Amendment to SECTION 34-2175. Height limitations for special areas, of the "Town of Fort Myers Beach Land Development Code " is hereby amended to read as follows:

Sec. 34-2175. Height limitations for special areas.

The following areas have special maximum height limitations as listed in this section:

~~—(1) Bonita Beach. The height of a structure shall not exceed 35 feet above grade, except as provided for in section 34-2174. If seaward of the coastal construction control line, elevations may exceed the 35-foot limitation by three feet for nonconforming lots of record.~~

~~—(2) Captiva Island. No building or structure shall be erected or altered so that the height exceeds two stories above the lowest habitable floor; however, in no case shall a building or structure be erected or altered so that the peak of the roof exceeds the height of 28 feet above the lowest habitable floor.~~

~~(3) Estero and San Carlos Islands. No building or structure shall be erected or altered so that the height of a structure shall not exceeds two stores above the lowest habitable floor; 35 feet above grade, except as provided for in section 34-2174. If seaward of the coastal construction control line, elevations may exceed the 35-foot limitation by three feet for nonconforming lots of record. however, in no case shall a building or structure be erected or altered so that the highest point of an exterior wall, exclusive of the roof system, exceeds 25 feet above the base flood elevation.~~

~~—(4) Gasparilla Island conservation district. No building or other structure shall be erected or altered within the district so that the peak of the roof is more than 38 feet above the average grade of the lot or parcel on which the building or structure is located, or is more than 42 feet above mean sea level, whichever is lower.~~

~~—(5) Greater Pine Island. No building or structure shall be erected or altered so that the peak of the roof exceeds 38 feet above the average grade of the lot in question or 45 feet above mean sea level, whichever is lower. The term "building or structure," as used in this subsection, shall not include a building or structure used for an industrial purpose.~~

~~—(6) Airport hazard zone. Height limitations for the airport hazard zone are set out in article VI, division 10, subdivision III, of this chapter.~~

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 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. Effect of Ordinance. The provisions of this Ordinance shall be deemed cumulative and supplemental and shall have no legal effect except as expressly provided. This ordinance shall not apply to previous land use approvals of the County Commission prior to incorporation or by the Town Council prior to the effective date.

SECTION 6. Effective Date. This ordinance shall become effective immediately upon its adoption.

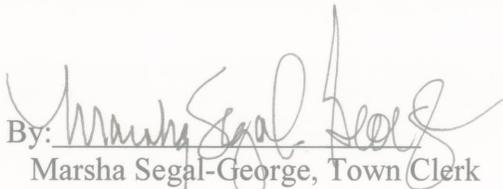
The foregoing ordinance was enacted by the Town Council upon a motion by Council Member Isler and seconded by Council Member Cereceda and, upon being put to a vote, the result was as follows:

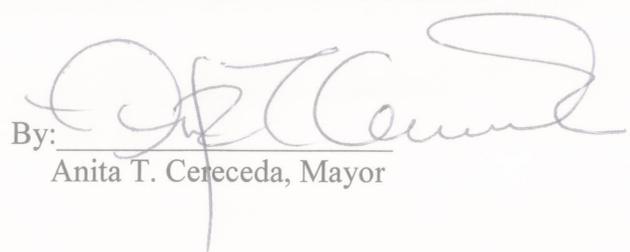
Anita T. Cereceda	<u>aye</u>
Ted FitzSimons	<u>absent</u>
William (Rusty) Isler	<u>aye</u>
Garr Reynolds	<u>aye</u>
Ray Murphy	<u>aye</u>

DULY PASSED AND ENACTED this 11<sup>th</sup> day of August, 1997.

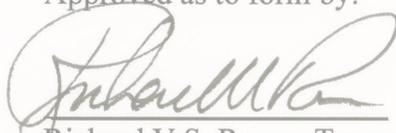
ATTEST:

TOWN OF FORT MYERS BEACH

By:   
Marsha Segal-George, Town Clerk

By:   
Anita T. Cereceda, Mayor

Approved as to form by:

  
Richard V.S. Roosa, Town Attorney