

**TOWN OF FORT MYERS BEACH, FLORIDA
ORDINANCE NO. 02-07**

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH ENTITLED “THIRD AMENDMENT TO THE FORT MYERS BEACH COMPREHENSIVE PLAN”; ESTABLISHING PURPOSE AND INTENT; AMENDING CHAPTER 10, RECREATION 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, in the further exercise of this authority the Town Council has adopted a second set of amendments to the Fort Myers Beach Comprehensive Plan through Ordinance No. 01-07; 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 16 and May 21, 2002, and the Town Council held its transmittal public hearing on June 17, 2002, 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 13, 2002, 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 9, 2002 and its second and final public hearing on this ordinance and these amendments on September 23, 2002.

**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 10, RECREATION ELEMENT

The Fort Myers Beach Comprehensive Plan is hereby amended by modifying the published text of the Recreation Element as shown in Exhibit A and by modifying the adopted objectives and policies of the Recreation Element as shown in Exhibit B, with new language underlined and deleted language struck through. This amendment is in response to Application 2002-3-TEXT.

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

The Fort Myers Beach Comprehensive Plan is hereby amended 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 C. This amendment is in response to Application 2002-1-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*.

Vice Mayor Terry Cain

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

Howard Rynearson

Daniel Hughes Aye

Terry Cain Aye

Howard Rynearson Aye

Bill Thomas Aye

Bill Van Duzer Aye

DULY PASSED AND ADOPTED THIS 23rd DAY OF SEPTEMBER, 2002

ATTEST: Town Council of Fort Myers Beach, Florida
By: *M. Sean May* By: *Daniel Hughes* Town Clerk Mayor
APPROVED AS TO FORM BY:
Paul... Town Attorney