

<http://www.fmbeach.org/ordinances/96-20.htm>

Ordinance 96-20

AN ORDINANCE ADOPTING THE FORT MYERS BEACH CORE AREA OVERLAY ZONING DISTRICT TO PROVIDE FOR OPTIONAL DEVELOPMENT STANDARDS WITHIN THE DISTRICT; PROVIDING FOR PURPOSE AND INTENT, ELEMENTS OF THE REDEVELOPMENT OVERLAY DISTRICT, MASTER PLAN, LIMITATIONS ON APPROVALS, MODIFIED DEVELOPMENT REGULATIONS, PROCEDURES FOR APPROVAL, AND FOR APPEALS OF ADMINISTRATIVE DECISIONS, MAP LEGAL DESCRIPTION OF OVERLAY DISTRICT, MASTER SITE PLAN, STORM WATER MANAGEMENT PLAN, PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, INCLUSION IN THE LAND DEVELOPMENT CODE, SCRIVENER'S ERRORS, AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, prior to the incorporation of the Town of Fort Myers Beach, Lee Plan Policy 2.7.1 provided that community redevelopment activities would be conducted by the Lee County Community Redevelopment Advisory Committee Agency within approved redevelopment areas according to adopted redevelopment plans; and

WHEREAS, Lee Plan Policy 110.4.10. provided that the Lee County Community Redevelopment Advisory Committee Agency would continue local revitalization efforts in the County's redevelopment areas to leverage private investment activities through public investment and community development and infrastructure improvements; and

WHEREAS, prior to the incorporation of the Town of Fort Myers Beach, Lee County's Community Redevelopment Advisory Committee Agency authorized the Fort Myers Beach Core Area Overlay Zoning Master Plan to be prepared hereinafter called the Master Plan; and; and

WHEREAS, Chapter 34 of the Fort Myers Beach Land Development Code provides for the establishment of a redevelopment overlay district also referred to as the Downtown District encompassing Districts One through Four as shown on 3 maps attached hereto, incorporated herein and labeled as follows; Map 1- Proposed Land Use by District-Fort Myers Beach Core Area Overlay Zoning Master Plan; Map 2- Storm Water Management Plan-Fort Myers Beach Core Area Overlay Zoning Master Plan; Map 3- Illustrative Master Plan; to recognize and provide for the unique requirements of redevelopment which cannot be adequately addressed through existing regulations; and

WHEREAS, the purpose of a redevelopment overlay district is to create favorable conditions for the revitalization of redevelopment areas by establishing a procedure through which such areas *may* be master planned; and

WHEREAS, master plans may include development guidelines and standards which, to the extent covered, are intended to provide an incentive driven alternative to the standard zoning and other land development regulations; and

WHEREAS, it is the express policy of the Town Council that development consistent with an approved master plan be *voluntary*; and

WHEREAS, the Master PlanFort Myers Beach Master Plan/Overlay was unanimously approved by the Estero Island Local Redevelopment Planning Committee and the Lee County Community Development Advisory Committee on September 14 and November 2, 1995 respectively; and

WHEREAS, Lee County Department of Community Development staff, and the Fort Myers Beach staff have reviewed the proposed Fort Myers Beach Master Plan and have recommended adoption of samethe Fort Myers Beach Redevelopment Overlay District; and

WHEREAS, the Fort Myers Beach Lee County Local Planning Agency held a Public Hearing on July 30, 1996 on the reviewed the proposed Fort Myers Beach Master Plan Overlay on January ____, Plan1995 and found the master plan consistent with the Lee Plan; and

WHEREAS, the Fort Myers Beach Local Planning Agency recommends to the Town Council that this ordinance be adopted; and

WHEREAS, the Fort Myers Beach Town Council has reviewed and accepts the recommendation of the Local Planning AgencyLee County Board of Commissioners desire to adopt the Fort Myers Beach Master Plan/Overlay as set forth below.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCILBOARD OF COUNTY COMMISSIONERS OF FORT MYERS BEACHLEE COUNTY, FLORIDA THAT:

SECTION ONE: Amendment to the Land Development Code

The Fort Myers BeachLee County Land Development Code is hereby amended to add Subdivision VI to Chapter 34, Division 11, to read as follows:

Subdivision VI. The Fort Myers Beach Overlay District

Sec. 34-114133 Purpose and intent.

(a) Purpose and affected area. This redevelopment overlay district is designed to stimulate the revitalization of the original commercial district on Estero Island. This district is known as the Downtown of Times Square and Fort Myers Beach and is described in a set of maps attached hereto and incorporated herein by reference. encompasses several city blocks spanning from Matanzas Pass to the Gulf of Mexico and on each side of Estero Boulevard to the Diamondhead Resort property. A legal description of the boundaries is set forth in Section 34-1139.

(b) Scope. The revitalization of the Fort Myers Beach Downtown Districtbusiness district will include the renovation and re-use of existing buildings and the construction of new buildings. It will also include the installation of public works, including plazas, sidewalks, changes in vehicular circulation, public and shared parking, and other street- scape improvements.

(c) Optional nature of these regulations. Individual landowners may choose to build or rebuild in full compliance with the provisions of this redevelopment overlay district, or may choose to follow all existing Fort Myers BeachLee County regulations. However, should a landowner elect to use any of the modified development regulations in Section 34-114537 below, he or she must comply with all of the requirements of this redevelopment overlay district on that property.

(d) Authority. The Fort Myers Beach Downtownbusiness Ddistrict lies at the heart of the pre-incorporation Estero Island community redevelopment area. This redevelopment overlay district is consistent with and helps to implement the adopted component redevelopment plan for Estero Island. This redevelopment overlay district also complies with all requirements for such districts found in Section 34-1122 through 34-1132 of the Fort Myers BeachLee County Land Development Code.

Sec. 34-114234 Elements of the redevelopment overlay district.

This redevelopment overlay district includes two distinct elements. The first is the Mmaster Pplan itself (Section 34-114335), which depicts the desired redevelopment plan for the Fort Myers Beach Downtown Districtbusiness district including public and private improvements. The second is a set of modified development regulations (Section 34-114537) which enable and encourage private landowners to rehabilitate existing buildings or construct new buildings.

Both elements of the redevelopment overlay district are needed to ensure the redevelopment of the business district in the old Florida/Caribbean style as shown in the Master Plan.

Sec. 34-114335 The master plan.

The master plan for the Fort Myers Beach Downtown business District contains three separate components as described in the following subsections.

(a) Master site plan. A reduced copy of the master site plan for the Fort Myers Beach Downtown business District is included in Appendix LI. Full-sized copies of this drawing are available at the Town Hall from the Lee County Community Redevelopment Agency in downtown Fort Myers.

(b) Storm Water management master plan. A reduced copy of the storm water management master plan for the Fort Myers Beach Downtown business District is included in Appendix LI. Surface water flows will continue to be directed away from Old San Carlos Drive and Estero Boulevard and towards Matanzas Pass under this plan, but water quality treatment and minimal storm attenuation will be added. Necessary facilities, to retrofit the existing storm sewer system for a regional exfiltration system are included in the future phases of the Master Plan implementation, and discussed in Section 34-1137(I) below. Full-sized copies of this drawing and the remainder of the plan are available from the Town Hall, Lee County Community Redevelopment Agency in downtown Fort Myers.

(c) Design guidelines. Design guidelines for the Fort Myers Beach Downtown business District are being adopted by administrative code. These guidelines provide technical and design assistance for exterior commercial building renovations and new construction. They are designed to encourage owners and tenants to preserve and improve the unique character of the business district, and to stimulate creative design solutions while promoting a sense of relatedness among properties. These guidelines are not regulations that control land-use decisions, and they contain no mandatory review process. They are designed simply to encourage the proper maintenance and improvement of the visual character of the Fort Myers Beach Downtown business District as a pedestrian-oriented retail and community center.

Sec. 34-114436 Limitations on approvals.

(a) Record-keeping. The staff of the Town of Fort Myers Beach Lee County Community Redevelopment Agency shall maintain detailed records of development and redevelopment that is approved using the modified development regulations in Section 34-114537 below. These records shall include cumulative totals of square footage of new commercial space and the resulting number of parking spaces (both the number required by general Town Lee County regulations and the number actually being provided by those

developing and redeveloping land in the Fort Myers Beach Downtownbusiness Ddistrict).

(b) *New development prior to public improvements.* Lee County's The Community Redevelopment Agency is constructingplanning major public improvements in the Fort Myers Beach Downtownbusiness Ddistrict that were planned and funded prior to incorporation and will include substantial pedestrian and automobile infrastructure improvements. If actual development activity recorded pursuant to Section 34-114436 (a) exceeds a cumulative total of 25,000 square feet of commercial space or a reduction of 100 parking spaces below general TownLee County regulations prior to the letting of contracts to construct on-street parking and the core surface water management system, then the TownCommunity Redevelopment Agency shall immediately undertake an analysis of actual demand for these public facilities in the Fort Myers Beach Downtownbusiness Ddistrict. The results of this analysis shall be presented to the Town CouncilBoard of County Commissioners which shall decide whether to initiate the public improvements or to repeal or modify these redevelopment overlay regulations so that adequate public facilities will be available when needed by new development. However, this provision shall not be interpreted to supersede the general concurrency requirements of Chapter 2 of the Land Development Code.

Sec. 34-114537 Modified development regulations.

(a) *Optional nature of this section.* All landowners in the Fort Myers Beach Downtownbusiness Ddistrict are encouraged to develop or redevelop their property in conformance with the overall Mmaster Pplan and the detailed design guidelines referred tofound in Section 34-114335 (c) . Should a landowner choose to avail himself of the modified development regulations contained here in this Section 34-1137, then compliance with all applicable portions of the redevelopment overlay district will be mandatory for that property and for any abutting lot(s) or adjacent building(s) under the same ownership or control, for a period of 10 years. Nothing in this ordinance shall require any landowner to participate in any of its provisions unless that landowner elects to do so. A landowner's decision to use these regulations shall be made in writing on a form supplied by the TownLee County. This form shall acknowledge that this decision runs with the land for the stated period. Fort Myers BeachLee County shall record this form in theits Official Record books of Lee County.

(b) *Modified development regulations.* The remainder of the provisions of this ordinance assume that a landowner in the Fort Myers Beach Downtownbusiness Ddistrict has elected in writing to comply in full with this redevelopment overlay district. All Fort Myers BeachLee County regulations shall remain in effect except as explicitly modified through this ordinance.

(c) Permitted uses. The permitted uses of land are normally determined by its zoning classification. At present, the district is zoned C-1, CPD and RM-2. Regardless of these underlying zoning classifications, the permitted uses of land in this redevelopment overlay district shall be in accordance with Table 1. The land uses that are permitted in the C-1 zone throughout Lee County as of August 16, 1995, are shown on Table 1 for informational purposes only. The table then shows those specific uses that are permitted in the Fort Myers Beach Downtownbusiness dDiistrict on the ground floor and/or outdoors facing the primary walking zone (facing the rights-of-way of Old San Carlos Boulevard).

(1) The terminology and the numbered notes used in this table are the same as contained in Table 34-843 of the Land Development Code, including the letter "P" to indicate a permitted use, "SE" for a use only by special exception, "SP" for a use only by special permit, "-" for a use that is not permitted in this district, "EO" for existing uses only, "TP" for temporary permit, "AA" for administrative approval, etc. (see Section 34-621(b) for details). Terms that are defined in Section 34-2 of the Land Development Code are specifically noted in this table.

(2) Land uses that are not specifically included nor excluded by Table 1 or the Land Development Code may be permitted only by application and review pursuant to the special permit process as provided by Section 34-232 (c) of the Fort Myers Beach Land Development Code..if they are no more intense than the most similar listed use, considering impacts such as noise, hours of operation, traffic generation, compatibility with the purposes of this overlay district, and similar factors.

(3) All land uses are subject to the supplementary district regulations that are found in Article VII of Chapter 34 of the Land Development Code, except as explicitly modified herein.

4. (4) Under no circumstances shall Ddrive-in or drive-through lanes may be permitted only by application and review pursuant to the special permit process as provided by Section 34-232 (c) of the Fort Myers Beach Land Development Code.be provided for any land uses.

(5) Outdoor restaurant seating is specifically encouraged in the Fort Myers Beach Downtownbusiness Ddistrict. Music or other entertainment for any patrons seated outdoors must not be audible at a distance of 200 feet from the outdoor

seating.***** (potential conflict with noise ordinance which needs to be worked out after noise ordinance adopted)

(6) In addition to the land uses shown in Table 1, certain temporary uses such as farmers' markets and portable carts selling food or crafts may be permitted in Times Square or on public rights-of-way. Such uses of public property are regulated by Town Ordinance and Lee County Ordinance on county property: Ordinance No. 88-11 (as amended by No. 90-42) which regulates commercial activities on road rights-of-way; Ordinance No. 90-56 which regulates activities in public parks and certain adjoining rights-of-way; and Administrative Code AC-8-1 (formerly known as D-0015) which regulates certain functions held on county property or within the county road system.

TABLE 1

LAND USES	SPECIAL NOTES OR REGULATIONS	OLD SAN CARLOS DRIVE	T SQ
Accessory apartment		P	
Administrative offices (defined term)		P	
Adult congregate living facility (defined term)		P	
Amusement park, less than ten acres (defined term)		-	
Animals:	34-1321 et seq.		

Clinic (defined term)		P	
Kennel (defined term)		-	
Control center (including Humane Society)		P	
ATM (automatic teller machine) (defined term)		P	
Auto parts store: (defined term)			
No installation service		P	
With installation service		-	
Automobile service station (defined term)		-	
Auto Repair and service (34-622(c)(2)):			
Group II		-	
Group II		-	
Bait and tackle shop		P	
Banks and financial establishments (34-622(c)(3)):			
Group II		P	
Group II		P	
Bar or cocktail lounge (defined term)	34-1261 et seq.	P	
Bed-and-breakfast establishments		P	
Boarding house (defined term)		P	
Boats: (defined term)			

Boat parts store (defined term)		-	
Boat rental	34-1352,	-	
Boat repair and service (defined term)	34-3001 et seq.	-	
Boat sales		-	
Boat storage, dry, not exceeding two tiers or 18 feet above natural grade		-	
Boat storage, dry, exceeding two tiers or 18 feet above natural grade		-	
Broadcast studio, commercial radio and television	34-1441 et seq.	P	
Building materials sales (34-622(c)(4))		-	
Business services (34-622(c)(5)):			
Group I		P	
Group II		-	
Bus station/depot (defined term)	34-1381 et seq.	-	
Caretaker's residence		SE	
Car wash (defined term)		-	
Cleaning and maintenance services (34-622(c)(7))		-	
Clothing stores, general (34-622(c)(8))		P	
Clubs:	34-2111		
Country (defined term)		-	
Commercial (defined term)		-	

Fraternal (defined term)		P	
Membership organization (defined term)		P	
Private (defined term)		P	
Community residential home (defined term)		P	
Consumption on premises	34-1261 et seq.	AA/SP	
Contractors and builders (34-622(c)(9)):			
Group I		P	
Group II		P	
Group III		-	
Convenience food and beverage store (defined term)		P1	
Cultural facilities (34-622(c)(10))		P	
Day care center, adult, child (defined term)		P	
Department store (defined term)		P2	
Dormitory (defined term)		-	
Drive-through facility for any permitted use (defined term)	Note (9)	-	
Drive-in theater (defined term)		-	
Drugstore, pharmacy (defined term)		P	

Dwelling unit: (defined term)		-	
Duplex (defined term)		P-	
Single-family (defined term)		P	
Two-family attached (defined term)		P	
Townhouse (defined term)		P	
Mobile home (defined term)		-	
Multiple-family building (defined term)		P	
	34-1749	P	
Entrance gates and gatehouse (defined term)			
Emergency medical service (ambulance station)		EO	
Emergency operations center		-	
Essential services (defined term)	34-1611 et seq.		
Essential service facilities (34-622(c)(13)):			
Group I	34-1611 et seq.	SE	
Group II	34-1611 et seq.	SE	
Excavation:		-	
Mining	34-1651 et seq.	P	
Water retention		-	
Oil or gas			

Fire station		P	
Flea market:			
Open (defined term)		SE3	
Indoor (defined term)		P	
Food and beverage service, limited (defined term)		SE	
Food stores (34-622(c)(16)):			
Group I		P	
Group II		P	
Forestry tower		-	
Fraternity house (defined term)		-	
Funeral home or mortuary:			
No cremation		SE	
With cremation		-	
Gasoline dispensing system, special (defined term)		-	
Government maintenance facility		-	
Hardware store (defined term)		P2	
Health care facility (34-622(c)(20)):			
Group I		P	
Group II		P	

Group III		P	
Group IV		-	
Heliport or helistop (defined terms)	34-1231 et seq.	SP	
Hobby, toy, game shops (34-622(c)(21))		P2	
Home care facility (defined term)		P	
Home occupation: (defined term)	34-1771 et seq.	P	
No outside help		P	
With outside help	34-1771 et seq.		
Hotel/motel:	34-1801 et seq.		
Efficiency (defined term)		P	
Business (defined term)		P	
Household and office furnishings (34-622(c)(22)):			
Group I		P	
Group II		P	
Group III		-	
Insurance companies (34-622(c)(23))		P	
Laundromat (defined term)		P	
Laundry or dry cleaning (34-622(c)(24)):			
Group I		P	
Group II		-	

Lawn and garden supply store (defined term)	34-2081	P	
Library		P	
Marina (defined term)	34-1862	P	
Marina, ancillary uses (defined term)		P	
Mass transit depot or maintenance facility (government-operated)		-	
Medical office (defined term)		P	
Mini-warehouse (defined term)		-	
Model: (defined term) Home Unit Display center	34-1951 et seq. 34-1951 et seq. 34-1951 et seq.	P P P	
Multislip docking facility (defined term)		P	
Nonstore retailers (34-622(c)(30)), all groups		P	
Package store (defined term)	34-1261 et seq.	P	
Paint, glass and wallpaper (defined term)		P	
		P	

Parks (34-622(c)(32)), public or private, groups I and II (defined term)			
Parking lot: Accessory (defined term) Commercial (defined term) Garage, public parking (defined term), Temporary (defined term)	34-3049 34-2022	P P P P	
Personal services (34-622(c)(33)): Group I Group II Group III Group IV		P P P P	P
Pet services (defined term)		P	
Pet shop (defined term)		P	
Pharmacy (defined term)		P	
Place of worship (defined term)	34-2051	P	
Plant nursery (defined term)	34-2081	P	
Police or sheriff's station		P	
Pool or billiard halls		P	

Post office		P	
	34-622 (c) (36)	-	
Printing and Publishing			
		P	
Real Estate Sales Office			
Recreation, commercial (34-622(c)(38)):			
Group I		P	
Group II		P	
Group III		P	
Group IV		P	
Recreational facilities: (defined term)	(34- 622(c)(38))		
Commercial (defined term)		P	
Private or public: (defined terms)		P	
Indoor only		P	
Indoor or outdoor		P	
Religious facilities (defined term)	34-2051 et seq.	-	
Rental or leasing establishments (34-622(c)(39)):	34-1201 et seq.	P	
Group I	34-1352	P	
Group II	34-3001 et seq.	P	
Group III		P	
Group IV			
Repair shops (34-622(c)(40)):			

Group I		P	
Group II		P	
Group III		P	
Group IV		-	
Group V		-	
Research and development laboratories (34-622(c)(41)):			
Group II		-	
Group IV		-	
Residential accessory uses (34-622(c)(42))		P	
Resort, see Hotel/motel (defined term)		-	
Restaurant, fast food (defined term)		P	
Restaurants (34-622(c)(43)): (defined term)			
Group I		P	
Group II		P	
Group III		P	
Group IV		P	
Roadside stand (defined term)	34-1714	TP	
Rooming house (defined term)		P	
Schools, commercial (34-622(c)(45))	34-2381	P	

Self-service fuel pumps (defined term)		-	
Self-service fuel pump station (defined term)		-	
Signs in accordance with chapter 30		P6	
Social services (34-622(c)(46)):			
Group I		P	
Group II		-	
Group III		-	
Group IV		-	
Specialty retail shop (34-622(c)(47)):			
Group I		P	
Group II		P	
Group III		P	
Group IV		P	
Storage: (defined terms)	34-3001 et seq.	P	
Indoor only		-	
Storage, open	34-3001 et seq.		
Studios (34-622(c)(49))		P	
Supermarket (defined term)		P	
Temporary uses	34-3041 et seq.	P	

Theater:	34-2471 et seq.	P	
Indoor		-	
Drive-in	34-2471 et seq.		
Towers, communication, (defined term)			
only when accessory to a permitted use:	34-1441 et seq.	-	
100 feet or less in height		-	
Over 100 feet in height	34-1441 et seq.		
Transportation services (34-622(c)(53)):			
Group I		-	
Group II		P8	
Group III		-	
Group IV		-	
Unit of high impact, includes time-share units (defined term)	34-3071 et seq.	P	
Used merchandise stores (34-622(c)(54)):			
Group I		P	
Group II		-	
Group III		-	
Group IV		-	
Variety store (defined term)		P	

Vehicle and equipment dealers (34-622(c)(55)):	34-1352	-	
Group I	34-1352	P	
Group II	34-1352	P	
Group III	34-1352	-	
Group IV	34-1352	-	
Group V			
Warehouse:			
Mini-warehouse (defined term)		-	
Private (defined term)		-	
Public (defined term)		-	
Wholesale establishment (34-622(c)(56)):			
Group I		-	
Group II		-	
Group III		-	
Group IV		-	
<p>Original notes from Table 34-843843: <i>[reprinted here only when referenced above]</i></p> <p>(1) Permitted only when accessory to a lawfully permitted single-family dwelling unit.</p> <p>((21) Only pPermitted where clearly subordinate and incidental to a specified principal use. only when accessory to a law family dwelling unit.</p> <p>(3) Permitted only if completely enclosed within a building.</p> <p>4. Subject to limitations for commercial uses set forth in section 34-937.</p> <p>1. Limited to 500 square feet when in conjunction with one dwelling unit on the same premises.</p> <p>(69) Use only permitted when clearly incidental to a hotel or motel.Excluding fast food restaurants for which drive-through by right.</p> <p>(715) Uses anticipated include boat rentals (inflatables, sailboats, jet skis, windsurfers and the like) food stands, rental of</p>			

furniture, outdoor amusements including balloonist, seaplane rides, ski tows and similar activities, fishing and sight-seeing towers. Limited to those commodities and products which are permitted to be sold at retail, provided that parking meets the sales.

8. Bail bonding, blood banks, blood donor stations and caterers permitted only by a special exception.
1. Drive-through, drive-in lanes require approval through a special permit process provided in Section 34-232 (c) of the Fort Myers Land Development Code.
2. The total square footage of the residential uses shall not exceed the total square footage of all existing and proposed commercial uses on the subject property, and the total number of residential units shall not exceed the number of units permitted by the Fort Myers Land Development Code, whichever ever is less.
3. Not permitted within 500 feet of the nearest residence.

Notes applying to the Fort Myers Beach business district only:

(a) The 500-foot spacing requirements in Section 34-1264 of the Land Development Code are hereby reduced to 0 feet. Hotel and cocktail lounges shall not be permitted within 100 feet of the right-of-way of Felts Ave. (measured from any public entrance or exit on any part of the right-of-way). The Executive Director of the Community Redevelopment Agency shall advise the Department of Public Works on all requests for on-premise consumption of alcoholic beverages.

(b) Restaurants may serve alcoholic beverages from a cocktail lounge (or directly at dining tables) without regard to any other provisions of the Code and without separate administrative approval or special permit, provided that there is no indication from the outside of the building that alcoholic beverages are served there.

(c) Bed-and-breakfast establishments provide paying guests with overnight accommodations and a morning meal in a dwelling unit.

(d) Excluding boats with engines larger than 10 horsepower.

(e) Excluding bail bonding, blood banks, blood donor stations, check exchanges, collection agencies, and employment agencies.

(f) Limited to bus stations/depots that provide scheduled intercity service in Fort Myers Beach.

(g) Limited to dwelling units or housing units that are located on the second or third floor of a building that also contains a dwelling unit.

(h) Fuel pumps may not be approved under any circumstances.

(i) Department stores, drugstores, hardware stores, supermarkets, and hobby, toy and game shops (defined terms) are permitted if the gross floor area of 10,000 square feet.

(k) Limited to the sale and/or repair of antique merchandise, meaning objects of an earlier period such as furniture, jewelry, miniaturized replicas, works of art, or other decorative articles that are collected primarily because of their age, history, or increasing value.

(l) Limited to one employee who is not a resident of the dwelling unit.

(m) Individual sleeping rooms must be located outside the primary walking zone.

(n) Excluding coin-operated laundries for self-service laundering or dry cleaning.

(o) Accessory parking lots (defined term) that serve land uses in the primary walking zone must be located behind the primary building.

also Sections 34-1135 and 34-1137(e)).

(p) Excluding drive-through lanes for ATMs.

(q) Limited to health and beauty clubs or spas only.

(r) Limited to establishments providing indoors seating for up to 150 patrons; additional seating may be provided outdoors in accordance with Sections 34-1137(c)(5) and 34-1137(e)(3)).

(s) Temporary permits for roadside stands may be renewed beyond the normal two-week maximum upon the favorable written approval of the Executive Director of the Community Redevelopment Agency.

(t) Must be in accordance with Section 34-1137(g) below.

(u) Limited to water taxis only.

(v) Also including the sale of clothing on consignment.

(de) Property development regulations. In the same manner as for Table 1, new property development regulations for the Fort Myers Beach Downtownbusiness Ddistrict are shown in Table 2. The terminology and notes used in this table are the same as contained in Table 34-844 of the Land Development Code, except as specifically noted.

TABLE 2

<p style="text-align: center;">DIMENSIONAL REGULATIONS</p>	<p style="text-align: center;">SPECIAL NOTES OR REGULATIONS</p>	<p style="text-align: center;">C-1 ZONING DISTRICT</p>	<p style="text-align: center;">D</p>
<p>Maximum density</p>	<p>34-2142, 2221 &22</p>	<p>Note (1)</p>	
<p>Minimum lot area and dimensions: Minimum lot size:</p>			

See section 34-2191 et seq.

(5) No side yard setback is required from common lot line for two-family attached or townhouse.

Notes applying to the Fort Myers Beach Downtownbusiness Ddistrict only:

(a) *Maximum bonus density allowed for multifamily residential use with the additional density for affordable housing only. A building or structure may materially obstruct visibility from vehicles crossing or turning onto Old San Carlos Drive. Visibility must be maintained on northwest or southeast corner lots within the triangular space bounded by the outer edges of the existing streets, the lanes and a straight line connecting the two edges 50 feet from their intersection. Visibility across this triangular space must be maintained between two feet and seven feet above the average grade of each street. (These requirements supersede the vehicle visibility requirements in Section 34-3131.)*

(b) *Setback may be covered by a roof or built as an arcade with building above. Projections of any character projecting over the property (such as doors, windows, awnings, canopies, overhangs, etc.) must comply with the requirements of the Standard Building Code for public property, except that fixed awnings or canopies may project over public property at the same clearances allowed for private property.*

(c) *Existing structures may be expanded at grade to the street right-of-ways without providing additional parking. Expansion at grade requires parking to code. Instead of placing the front wall of a building up to the "build-to" line, a landowner may choose to provide outdoor seating for a permitted use in the space between the building and the "build-to" line.*

(d) *30 feet from front setback at grade, 50 feet from front setback above grade. Where side setbacks are less than 5 feet, setbacks may be presented that the landowner will be able to maintain the exterior wall, for example through a maintenance easement with the landowner.*

(e) *Minimum 5 feet one side with 50% lot width total setback required. The exterior walls of buildings must meet the fire resistance requirements in Table 600 of the Standard Building Code; these requirements vary based on the amount of horizontal separation from the lot line.*

(f) *Above Base Flood Elevation. The additional permitted height over 35 feet that is allowed by Section 34-2174(a) does not apply to the Springs Town Center redevelopment overlay district.*

g. (g) *Additional height allowance for greater setbacks (sec. 34-2174 (a)) This lot coverage percentage applies to buildings, streets, water detention areas or hard surfaces such as parking areas, pedestrian ways, and patios.*

a. *Refer to special provision for towers*

b. *Parking garage exempt*

c. *Governed by setback requirements*

(e) Off-street parking. Off-street parking is generally required in accordance with Section 34-2011 et seq. of the Land Development Code. Those requirements assume that patrons of each land use will arrive in a private automobile that will be parked in a private lot on the same premises. The Fort Myers Beach Downtownbusiness District differs in several ways from most conventional development: its location on Estero Island allows some arrivals on foot or by bicycle, trolley, or boat; the proposed intensity of related uses will increase the number of destinations for each automobile trip; shared parking lots are encouraged by this overlay district; and some on-street parking will be provided. In response to these conditions, the following modifications to the Land Development Code shall apply:

(1) *Location of off-street parking spaces.* Off-street parking spaces shall not be placed between the principal building and the street. This parking shall be provided in parking lots located generally behind the principal building, in order to de-emphasize the visual effect of large parking lots and to allow the front walls of buildings to become an integral part of the pedestrian-oriented streetscape being created through the master plan.

(2) *Access, location, and design of parking spaces.* Notwithstanding any conflicting provisions of Section 34-2013 and 34-2015 of the Land Development Code:

a. Parking lots may be accessed by alleys, and parking spaces may be directly accessed from alleys, provided such alleys are improved in accordance with this sSection. 34-1137(j) herein.

b. Distinct parking lot entrances to streets or alleys shall be at least 12 feet wide for one-way entrances and 20 feet wide for two-way entrances.

(3) *Required number of parking spaces.* The number of off-street parking spaces required for any given land use by Section 34-2020 shall be reduced by one-third. Area used for outdoor restaurant seating shall not be counted in the total floor area when calculating parking requirements.

(4) *Joint use of off-street parking lots.* Notwithstanding any conflicting provisions of Section 34-2018 of the Land Development Code:

a. Joint or shared use of off-street parking is specifically encouraged in the Fort Myers Beach Downtownbusiness Ddistrict. To this end, joint-use parking may be approved administratively by the Town ManagerLee County Community Redevelopment Agency as an alternative to, the special permit process found in Section 34-203(g)(5), in accordance with the following provisions of this sub-section (4).

b. Joint or shared parking lots must be located on the same block as the land uses they serve. Signs shall be placed to inform motorists of the allowable use of shared lots. Applicants are also encouraged to include joint space for off-street loading in these lots.

c. In joint or shared lots, the same parking space may fully satisfy the off-street parking requirement for two different land uses provided their peak parking demands clearly occur at different times. When the peak demands do not clearly occur at different times, each two parking spaces can replace three parking spaces that would otherwise be required by the combined uses (after the reduction found in subsection (3) above).

d. TownCRA administrative approval for joint or shared use of off-street parking can be granted only when all users of the shared lot have chosen to be governed by this redevelopment overlay district in accordance with Sections 34-1137 (a), and (b) above. Requests for administrative approval shall include the following:

1. A notarized statement from all property owners involved indicating the use of each property and to what extent the activities of each separate building or use which create a demand for parking shall occur at different times.

2. Written agreements, covenants, contracts and the like, acceptable to the TownCRA, which ensure that the parking area is to be used jointly and establish the responsibility for maintenance.

e. Administrative approvals granted by the TownCRA shall be recorded in the same manner as other administrative approvals granted under the Land Development Code.

(f) Off-street loading. Space for off-street loading is generally required in accordance with Section 34-1981 et seq. of the Land Development Code. Conventional development is designed so that the unloading of products or materials from large trucks occurs entirely off-street, often in space earmarked for that purpose. The Fort Myers Beach Downtownbusiness Ddistrict differs from conventional development by eliminating large retailers and industrial uses, both of which usually require a separate area for off-street loading to or from large trucks. In addition, the more intense clustering of commercial uses along street frontages precludes a separate loading space for each use. Accordingly, and notwithstanding any conflicting provisions of Section 34-1981 et seq. of the Land Development Code:

(1) *Off-street loading area.* Off-street loading areas shall not be placed between the principal building and the street right-of-way line. A separate loading area is not required, but when provided, the surfaced portions of loading areas are not required to be set back from side or rear lot lines.

(2) *Interference with parking areas.* Establishments are encouraged to schedule deliveries before or after their normal business hours. Deliveries that are made during normal hours may not obstruct parking aisles or parking entrances.

(g) Sandwich signs. The Town'sLee County's sign regulations are found in Chapter 30 of the Land Development Code, and additional guidance is provided through the design guidelines discussed in Section 34-114337(ec) above. With certain exceptions, signs in Fort Myers BeachLee County must be placed on private property. In light of the urban character of the Fort Myers Beach Downtown District, signs may be placed in the Downtownbusiness Ddistrict abutting or extending over public property such as sidewalks despite the general prohibition in Section 30-5 of sandwich-board signs, "A" signs, or other types of portable signs which are portable and readily movable from place to place. Single- or double-faced sandwich signs may be placed on the same premises or on sidewalks directly in front of the premises provided that the sign is placed indoors after business hours, is not illuminated, and, if placed on a public sidewalk, does not exceed 24 inches in width.

(h) Development standards. In a similar manner as for Tables 1 and 2, new development standards for the Fort Myers Beach Downtownbusiness Ddistrict are shown in Table 3. The terminology in this table follows that in Chapter 10 of the Land Development Code, except as specifically noted.

TABLE 3

<p>TYPE OF DEVELOPMENT STANDARD</p>	<p>FOUND WHERE IN LAND DEVELOPMENT CODE</p>	<p>SUBSTANCE OF CURRENT REGULATIONS</p>		<p>FORT MYERS BEACH DowntownBUSINESS DISTRICT (ALL PORTIONS)</p>
<p>Open space:</p> <p> small developments</p> <p> large developments</p>	<p>10-413(b)</p>	<p>20%</p> <p>30%</p>		<p><i>Note (a)</i></p> <p><i>Note (a)</i></p>
<p>Minimum required buffering:</p> <p> commercial adjoining existing residential development</p> <p> commercial adjoining street rights-of-way</p>	<p>10-414(a)</p>	<p>15-foot buffer and 8-foot-high fence, wall or berm</p>		<p><i>None</i></p>
	<p>10-415(b)</p>	<p>10-foot-wide landscaped strip</p>		<p><i>Note (b)</i></p>
<p>Storm water detention</p>	<p>10-321 et seq.</p>	<p>Required for each individual parcel</p>		<p><i>See Section 5(I) below</i></p>
<p>Intersection separation</p>	<p>10-285</p>	<p>Arterials:</p> <p>Collectors:</p> <p> Local streets:</p>	<p>660 ft.</p> <p>330 ft.</p> <p>125</p>	<p><i>Estero Blvd. Old 41: note (c)</i></p> <p><i>Other streets: note (d)</i></p>

			ft.	
		Access roads or access ways:	60 ft.	<i>Note (e)</i>

Notes applying to the Fort Myers Beach business district only:

(a) There is no minimum open space requirement comparable to that required by Section 10-413 .

(b) There is no minimum buffer requirement adjoining rights-of-way comparable to that required by Section 10-414(f).

(c) Vehicular access to private parking spaces shall be via the side streets (see Section 34-1137(j) below). No new access points shall be allowed directly to Old San Carlos Drive, and existing access points (other than existing alleys) shall be removed when parking areas are reconfigured to conform to these regulations.

(d) Vehicular access to parking spaces shall be via the side streets wherever possible (see Section 34-1137(j) below). New access points shall be allowed to streets other than Old San Carlos Drive only where side street access is not shown in the master plan (see Section 34-1135), or where side street access is not feasible/infeasible or inferior to the circulation pattern shown in the master plan (as determined by the Town Manager Executive Director of the Community Redevelopment Agency).

(l) Storm water management. This redevelopment overlay district contains an integral water management plan for the entire Fort Myers Beach business district. Surface water flows will continue to be directed away from Old San Carlos Drive and Estero Boulevard and towards Matanzas Pass under this plan, but water quality treatment and minimal storm attenuation will be added. Retention facilities, control structures, and outfalls will be constructed by the Lee County Community Redevelopment Agency. The construction of inlets and drainage piping within each block is the responsibility of landowners on that block at the time of development or redevelopment, and must be sized to serve the entire block. Storm water runoff west of Old 41 will be directed into exfiltration trenches; runoff east of Old 41 will flow into a detention lake, or as the surface water management plan may be amended from time to time. The engineering details for all facilities constructed by private owners in conjunction with development

activity shall be subject to the review and approval of the Development Services director.

(i) Building Height Limitations. Building Heights are limited to 40' above Base Flood Elevation allowing a maximum of a three story building. Additional building heights in return for greater setbacks is not an available option under the Master Plan.

(jk) Building regulations. The purpose of this subsection is to encourage the continued use or reuse of existing buildings in the Fort Myers Beach Downtownbusiness Ddistrict and to encourage the creation of awnings and canopies over sidewalks and pedestrian walkways. Accordingly, and notwithstanding any conflicting provisions of Chapter 6 of the Land Development Code:

(1) *Existing uses.* Existing buildings may continue their existing use, provided such buildings are maintained in a safe and sanitary condition and such use was legal at the time of adoption of this ordinance resolution. Buildings left vacant for a time period exceeding 2 years shall be analyzed prior to reoccupancy for structural strength, stability, sanitation, adequate light and indoor air quality, adequate plumbing, mechanical, gas, and electrical systems, and safety to life and property from fire and other hazards affecting the safe use and occupancy of the building. The Building Official may waive one or more of the above requirements based upon the type occupancy being requested. Findings of the analysis shall be submitted to the Building Official as a part of the application for a permit to reoccupy the building.

(2) *Alterations, Repairs, and Rehabilitation.* Alterations, repairs, or rehabilitation work may be made to any existing building without requiring the building to comply with all the requirements of the building codes provided that the alteration, repair, or rehabilitation work conforms to the requirements of the Building, Plumbing, Mechanical, Gas, and Electrical Codes for new construction. The Building Official shall determine the extent to which the remainder of the building shall be made to conform to the requirements of these codes for existing construction, consistent with the purposes of this subsection.

(3) *Change of a building's use or occupant.* When a new use is proposed for an existing building, or a new occupant wishes to occupy an existing building, the following shall apply:

a. If the occupancy classification of an existing building or structure is changed to a more hazardous occupancy (based on the life safety and fire hazard involved), the building, electrical, gas, mechanical, and plumbing systems shall be made to conform to the intent of the technical codes as required by the Building Official.

b. . If a new use falls within the same occupancy classification as the previous use, the requirement in subsection a. shall not apply.

c. The mere change of occupant within the same occupancy classification, or the upgrading of a certificate of compliance to a certificate of occupancy, shall not cause the requirement in subsection a. to apply.

(4) *Awnings and canopies.* The installation of awnings and canopies over sidewalks and pedestrian walkways is specifically encouraged, (see design guidelines referred to in Section 34-1135 (e) above). Awnings and canopies that extend over public property are regulated by Chapter 22 of the Standard Building Code. In order to allow and encourage the implementation of the master plan, landowners may construct fixed awnings and canopies that extend over public property to the same extent as allowed by the Standard Building Code for movable awnings, notwithstanding the limitations found in Section 34-2191 of the Land Development Code..

Sec. 34-114638 Procedures for approval and for appeals of administrative decisions.

(a) *Approval process.* In order to minimize the time required for review of permit requests in the Fort Myers Beach Downtownbusiness Ddistrict, all staff any review conducted by the Community Redevelopment Agency staff shall occur simultaneously. with review by other county agencies. County agencies shall be responsible for notifying the Community Redevelopment Agency staff immediately upon receipt of relevant permit applications. The Community Redevelopment Agency staff shall be responsible for conducting its review within the same time period as allotted to those agencies. Permit applicants are encouraged to consult with permitting departments and the Community Redevelopment Agency staff prior to submitting applications.

(b) *Appeals of administrative decisions.* Administrative decisions may be appealed in accordance with existing procedures for such appeals.

Sec. 34-1139 Legal Description of Overlay District

The Fort Myers Beach Redevelopment Overlay District is legally described as follows:

A tract or parcel of land lying on Estero Island, Plat Book 3 at Page 26 and Heitman's Bonita Springs Townsite, Plat Book 6 at Page 24, Lee County Records in Section 35, Township 47 South, Range 25 East, Bonita Springs, Lee County, Florida which tract or parcel is described as follows: Beginning at the intersection of the center lines of Abernathy Street and Felts Avenue as shown on said Plat of Bonita Springs and run Westerly along the centerline of said Abernathy Street, across Old 41 Road and continue along the centerline of Abernathy Street (Fifth Street, as shown on said Plat of Heitman's Bonita Springs Townsite) to the centerline of Front Street; thence run Northerly along said centerline to the centerline of Childers Street, thence run Westerly and Southwesterly along the centerline of Pennsylvania Avenue to an intersection with a southerly prolongation of the centerline of East Drive; thence run Northerly along said prolongation and said centerline to the southerly shore of Imperial River; thence run Easterly along said southerly shore to an intersection with said centerline of Felts Avenue; thence run Southerly along said centerline to the Point of Beginning.

SECTION TWO: AMENDMENTS TO LAND DEVELOPMENT CODE APPENDIX

There is hereby created Appendix LI to the Land Development Code. This Appendix will include a reduced copy of three maps that pictorially describe the boundaries of the Downtown District identified as Map 1-Proposed Land Use by District-Fort Myers Beach Core Area Overlay Zoning Master Plan; Map 2-Storm Water Management Plan-Fort Myers Beach Core Area Overlay Zoning Master Plan; Map 3-Illustrative Master Plan the Fort Myers Beach Master Site Plan and Surface Water Management Plan-Fort Myers Beach Core Area Overlay Zoning Master Plan.

SECTION THREE: SEVERABILITY

It is the legislative intent that if any section, subsection, sentence, clause or provision of this Ordinance is held to be invalid 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/Board of County Commissioners that this ordinance would have been adopted had such unconstitutional provision not be included therein.

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: CODIFICATION, INCLUSION IN CODE AND SCRIVENER'S ERRORS

The Town CouncilBoard of County Commissioners intends for the provisions of this ordinance to become and be made a part of the Fort Myers BeachLee County Land Development Code; and that sections of this ordinance may be renumbered or relettered and that the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intention; and regardless of whether such inclusion in the code is accomplished, sections of this ordinance may be renumbered or relettered and typographical errors which do not affect the intent may be authorized by the Town ManagerCounty Administrator, or his designee, without need of public hearing.

SECTION SIX: EFFECTIVE DATE

This ordinance will take effect immediately upon adoptionreceipt by the Board of County Commissioners of Lee County, Florida, of the official acknowledgment from the Secretary of State of Florida that it has been filed with that office.