



# SPIKOWSKI PLANNING ASSOCIATES

## MEMORANDUM

**TO:** Walter Fluegel, Community Development Director  
**FROM:** Bill Spikowski  
**DATE:** December 21, 2010  
**SUBJECT:** Latest Update to Land Development Code for Fort Myers Beach

Attached to this memo are replacement pages for the Fort Myers Beach Land Development Code to be distributed to interested parties and added to any unsold volumes of the code. These pages include all changes made by the Town Council via Ordinances 09-08, 10-06, and 10-09 (through September 20, 2010).

Those holding LDC binders that have been updated through Ordinances 09-01 and 09-02 should use the attached pages to replace the obsolete pages in their code binder. Obsolete pages can be discarded.

- **Table of Contents:** replace existing table of contents page
- **Chapter 6:** replace existing pages 5–6
- **Chapter 34:** replace existing pages 33–34, 131–132 and 145–156

The entire Land Development Code, including these latest revisions, can be downloaded and printed at no cost from this web page: <http://www.spikowski.com/beach.htm> Replacement pages for previous amendments (through Ordinances 09-01 and 09-02) were circulated in April 2010 and are still available from the same web page.

Also available on that web page is a single Adobe PDF file with a compilation of the entire code that can be used for searching for words or other text strings throughout the code using most Adobe Acrobat/Reader software. This compilation of the entire code is available here: [http://www.spikowski.com/New\\_CHnn-AllChaptersThru10-09.pdf](http://www.spikowski.com/New_CHnn-AllChaptersThru10-09.pdf)

cc: Town Manager, Town Attorney, Town Clerk

TOWN OF FORT MYERS BEACH, FLORIDA  
**LAND DEVELOPMENT CODE**

<b>CHAPTER 1</b>	<b>General Provisions</b>	Adopted by Town Charter, 12/31/95 Replaced by Ord. No. 02-01, 2/4/02 Amended by Ord. No. 05-07, 4/18/05 Amended by Ord. No. 06-14, 9/18/06
<b>CHAPTER 2</b>	<b>Administration</b>	Adopted by Town Charter, 12/31/95 Replaced by Ord. No. 00-11, 6-29-00 Amended by Ord. No. 02-01, 2/4/02 (§§2-301– 459) Amended by Ord. No. 03-12, 12/15/03 (§§2-420–459) Amended by Ord. No. 05-07, 4/18/05 Amended by Ord. No. 06-14, 9/18/06
<b>CHAPTER 6</b>	<b>Maintenance Codes, Building Codes, and Coastal Regulations</b>	Adopted by Town Charter, 12/31/95 Replaced by Ord. No. 00-12, 6/29/00 Amended by Ord. No. 02-01, 2/4/02 (§§6-401–474) Amended by Ord. No. 04-09, 6/30/04 (§§6-401–474) Amended by Ord. No. 05-07, 4/18/05 Amended by Ord. No. 06-13, 6/19/06 Amended by Ord. No. 06-18, 12/11/06 Amended by Ord. No. 08-09, 8/18/08 Amended by Ord. No. 10-06, 5/3/2010
<b>CHAPTER 10</b>	<b>Development Orders and Engineering Standards</b>	Adopted by Town Charter, 12/31/95 Replaced by Ord. No. 04-01, 1/5/04 Amended by Ord. No. 05-07, 4/18/05 Amended by Ord. No. 06-14, 9/18/06 Amended by Ord. No. 09-01, 12/21/09
<b>CHAPTER 14</b>	<b>Environment and Natural Resources</b>	Adopted by Town Charter, 12/31/95 Amended by Ord. No. 98-3, 4/6/98 Replaced by Ord. No. 02-01, 2/4/02 Amended by Ord. No. 02-29, 9/26/02 (§§14-6, 14-78) Amended by Ord. No. 05-24, 6/27/05 (since repealed) Amended by Ord. No. 07-03, 4/2/07
<b>CHAPTER 22</b>	<b>Historic Preservation</b>	Adopted by Town Charter, 12/31/95 Replaced by Ord. No. 02-01, 2/4/02
<b>CHAPTER 26</b>	<b>Marine Facilities</b>	Adopted by Town Charter, 12/31/95 Replaced by Ord. No. 02-01, 2/4/02 Amended by Ord. No. 05-07, 4/18/05
<b>CHAPTER 27</b>	<b>Personal Watercraft and Parasailing</b>	Adopted by Ord. No. 96-27, 12/2/96 Replaced by Ord. No. 01-05, 9/24/01 Amended by Ord. No. 07-03, 4/2/07
<del><b>CHAPTER 28</b></del>	<del><b>Parasailing</b></del>	Adopted by Ord. No. 97-2, 1/21/97 Amended by Ord. No. 99-4, 4/19/99 Repealed and then integrated into Chapter 27 by Ord. No. 01-05, 9/24/01
<b>CHAPTER 30</b>	<b>Signs</b>	Adopted by Town Charter, 12/31/95 Amended by Ord. No. 99-1, 2/1/99 Amended by Ord. No. 99-11, 9/13/99 Amended by Ord. No. 99-14, 11/15/99 Amended by Ord. No. 03-06, 6/2/03 Amended by Ord. No. 05-07, 4/18/05 Amended by Ord. No. 08-03, 4/7/08
<b>CHAPTER 34</b>	<b>Zoning Districts, Design Standards, and Nonconformities</b>	Adopted by Town Charter, 12/31/95 Amended by Ord. No. 96-6, 7/1/96 Amended by Ord. No. 96-20, 9/3/96 Amended by Ord. No. 97-9, 8/11/97 Amended by Ord. No. 97-21, 12/15/97 Amended by Ord. No. 99-16, 12/20/99 Amended by Ord. No. 00-13, 6/29/00 Amended by Ord. No. 02-04, 6/24/02 Replaced by Ord. No. 03-03, 3/3/03 Amended by Ord. No. 03-11, 11/3/03 (§§34-3048, 51) Amended by Ord. No. 04-08, 6/30/04 (§§34-677, 678) Amended by Ord. No. 05-08, 4/18/05 Amended by Ord. No. 05-21, 6/6/05 (§34-636) Amended by Ord. No. 05-22, 9/12/05 (§34-113) Amended by Ord. No. 06-09, 3/20/06 (§34-113, 114) Amended by Ord. No. 06-14, 9/18/06 Amended by Ord. No. 06-18, 12/11/06 (§34-631) Amended by Ord. No. 07-09, 1/23/08 Amended by Ord. No. 07-04, 2/22/08 Amended by Ord. No. 08-11, 9/15/08 Amended by Ord. No. 09-02, 4/6/09 Amended by Ord. No. 09-08, 4/5/2010 Amended by Ord. No. 10-09, 9/20/10



The director will prepare an assessment bill for the entire cost of abatement.

(c) Within 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 subsection (c), 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 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 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. Building numbers.**

(a) Every building in the town shall continuously display the building number assigned to it by Lee County so that the building can be readily identified from the street by emergency personnel.

(b) Posted building numbers shall be at least 3 inches high. Numbers on commercial, institutional, or multifamily buildings that are set back more than 50 feet from the street shall be at least 8 inches high. Building numbers shall be in a color that contrasts with the immediate background and must be clearly visible from the adjoining street.

**Sec. 6-11. Refuse containers.**

(a) Refuse containers shall not be moved to the street more than 24 hours prior to scheduled curbside collections nor remain there more than 24 hours after scheduled collections.

(b) Each refuse container that is not movable in accordance with subsection (a) shall be opaquely screened from view from streets and adjoining

properties, at the full height of such container above the adjacent grade. This screening may be achieved by landscaping or by virtue of the location of the container on the site. Screening may also be achieved by walls or opaque fencing provided the wall or fence does not exceed the maximum height permitted for the location (see §§ 34-1171 et seq. and 34-1744).

(c) Any refuse container not located within a roofed enclosure must have a lid that renders the interior of the container inaccessible to animals.

**Sec. 6-12. Disposal of swimming pool water.**

Prior to disposal of swimming pool water, chlorine and bromine levels must be reduced by not adding chlorine or bromine for at least five days or until levels are below 0.1 mg per liter.

- (1) The preferred method for disposing of swimming pool water is to discharge the water into roadside swales to allow percolation into the ground without any runoff to canals, beaches, wetlands, other tidal waters, or onto adjoining properties. The discharge of dechlorinated water into roadside swales is permitted by § 10-604 of this code.
- (2) Another acceptable method is to discharge the water into the sanitary sewer system operated by Lee County Utilities.
- (3) Swimming pool water may not be discharged either directly or indirectly to the beach, canals, wetlands, or any other tidal waters.

**Sec. 6-13. Stormwater drainage on the beach.**

Tidal waters can become polluted and beaches can be eroded when pipes or culverts discharge directly onto the beach. Point sources of discharge from private property directly onto the beach are prohibited. This prohibition includes drainage collected from parking lots or other paved surfaces and stormwater from the roofs of buildings. Point sources of discharge from private property that were in lawful existence as of April 18, 2005, must be eliminated within 36 months.

**Sec. 6-14. Neighborhood flooding.**

(a) Chapter 10 of this code requires stormwater management systems for new development (see § 10-321). Development that is not subject to those requirements, such as single-family and two-family dwellings on existing lots, can also flood surrounding lots and streets, especially if the lot is raised higher than adjoining properties or if rainfall is concentrated by gutters and downspouts and discharged without an opportunity for infiltration.

(b) To minimize neighborhood flooding from normal daily rainfall, a fill permit must be obtained from the town when fill material is to be placed on lots that would raise the elevation more than an average of 6 inches above adjoining lots. The fill permit application must show how normal rainfall will have an opportunity to infiltrate into the ground within the lot using one or more of the following methods or equivalent solution:

- (1) Gutters and downspouts that collect rainwater must discharge into exfiltration trenches (french drains), or into a subsurface drainfield that meets the construction standards of F.A.C. 64E-6.014(5) (the percolation, depth, location, and setback standards for drainfields need not be met), or onto substantially flat and porous surfaces such as:
  - a. Sodded lawns.
  - b. Clean (washed) gravel or sand over a well-drained base.
  - c. Porous (pervious) paving.
- (2) Roof areas not served by gutters and downspouts must not drain to impervious surfaces, and must not drain to pervious surfaces that are sloped in excess of 5%. Surfaces not meeting these requirements must be designed to detain or deflect rainfall, for instance through the use of earthen ridges, curbs, or retaining walls that prevent average rainfall from running onto adjoining lots or streets.

(c) Additions to, renovations of, and replacements for single-family and two-family dwellings that include the installation of gutters and downspouts must also obtain a fill permit showing discharge from the downspouts being directed to the same standards as for filled lots.

**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.**

must be filed within 30 calendar days after the decision has been rendered. For the purposes of computing the 30-day period, the date that the decision has been rendered is the date of the public hearing at which the town council made such decision by oral motion.

(b) The person making application to the town council for a final decision entitled to judicial review is a necessary and indispensable party to any action seeking judicial review of that final decision.

(c) This section is not intended to preclude actions pursuant to F.S. § 70.51 (see § 34-94), or actions pursuant to § 163.3215 that challenge consistency of any final zoning decision on a specific application with the Fort Myers Beach Comprehensive Plan.

**Secs. 34-97--34-110. Reserved.**

**DIVISION 3. LOCAL PLANNING AGENCY**

**Sec. 34-111. Agency established.**

The Town of Fort Myers Beach local planning agency (LPA) is hereby established.

**Sec. 34-112. Purpose and scope.**

The broad objectives of town planning and the creation of the local planning agency are to further the welfare of the citizens of the town by helping to promote a better, more helpful, convenient, efficient, healthful, safe, and attractive community environment and to insure that the unique and natural characteristics of the island are preserved.

**Sec. 34-113. Composition, appointment, and compensation of members.**

(a) The local planning agency shall consist of up to seven members appointed by the town council. No members of the local planning agency shall be salaried officials of the town. Membership on the local planning agency shall not affect a person's eligibility for membership on any other advisory committee for the Town of Fort Myers Beach during his/her term of office. One spouse per household will be eligible for membership on the local planning agency during any given term of office. No current member of Town Council shall be eligible to serve on the local planning agency. Except for

inclusion of members required under Florida law, all members must be residents of, or owners of real property located within, the territorial limits of the Town of Fort Myers Beach at the time of application for membership on the local planning agency and during the period of service on the local planning agency. All applicants must apply on or before October 1 of the appointment year. Each application must include a short biography and short explanation as to why the applicant wishes to serve on the local planning agency.

(b) The members of the local planning agency shall serve without compensation but may be reimbursed for expenses as are necessary to conduct the work of the agency from funds appropriated by the town council.

(c) In addition to the up to seven voting members, the local planning agency shall also include as a nonvoting member a representative of the Lee County School District, as designated by the Lee County School Board, to attend and participate in those meetings at which the local planning agency considers comprehensive plan amendments and rezonings that would, if approved, increase residential density on the property that is the subject of the application (see F.S. 163.3174(1), 2002).

**Sec. 34-114. Members' terms and vacancies.**

(a) The term of office of a member of the local planning agency shall be staggered in increments of two years or until a successor has been appointed and has qualified, except that the respective terms of the members first appointed under Ordinance 08-11 shall be up to four members for a one-year term and three members for a two-year term. If otherwise qualified, a member may be repeatedly appointed for an additional term by Town Council without a limitation in number of terms served.

(b) Appointments shall be made annually at the first available meeting of the council in November. The term of any member which would otherwise expire in April, 2008, will be extended to the first available Town Council meeting in November, 2008, or until such member's successor has been appointed, whichever is sooner. The term of any member which would otherwise expire in April, 2009, will be extended to the first available Town Council meeting in November, 2009, or until their successor has been appointed, whichever is sooner.

Vacancies in the local planning agency shall, within sixty days, be filled by the council for the remainder of the term created by such vacancy.

**Sec. 34-115. Forfeiture of office.**

A local planning agency member shall forfeit office if the member:

- (1) Lacks at any time during the term of office any qualification for the office prescribed by town ordinance or state law; or
- (2) Violates any standard of conduct or code of ethics established by law for public officials; or
- (3) Is absent from three regular local planning agency meetings per year without being excused by the local planning agency.

**Sec. 34-116. Election and duties of officers.**

(a) The local planning agency shall elect a chairperson and a vice-chairperson each year at the first meeting of the newly appointed members.

(b) It shall be the duty of the chairperson to preside over all meetings of the local planning agency. In the absence of the chairperson, the vice-chairperson may preside.

**Sec. 34-117. Clerk.**

The town manager or designee shall be the clerk of the local planning agency. It shall be the duty of the clerk to keep a record of all proceedings of the local planning agency, transmit its recommendations when directed by the chairperson, maintain an updated complete file of all its proceedings at town hall, and perform such other duties as are usually performed by the clerk of a deliberative body.

**Sec. 34-118. Rules and procedures.**

The local planning agency shall meet at least eight times per year and shall meet no less often than bimonthly or more frequently at regular intervals to be determined by it, and at such other times as the chairperson or as it may determine. It may adopt rules for the transaction of its business. The rules may be amended from time to time, but only upon notice to all members that said proposed amendments shall be acted upon at a specified meeting. A majority vote of the local planning agency shall be required for the approval of the

proposed amendment. It shall keep a properly indexed record of its resolutions, transactions, findings, and determinations, which record shall be a public record. All meetings of the local planning agency shall be public meetings.

**Sec. 34-119. Employment of staff and experts.**

The local planning agency may, subject to the approval of the town council and within the financial limitations set by appropriations made or other funds available, recommend the town manager employ such experts, consultants, technicians and staff as may be deemed necessary to carry out the functions of the local planning agency. Such technical assistance to the local planning agency shall be under the day-to-day supervision of the town manager.

**Sec. 34-120. Specific functions, powers, and duties as to comprehensive planning and land development regulations.**

The functions, powers, and duties of the local planning agency as to comprehensive planning and adoption of land development regulations shall be to:

- (1) Acquire and maintain such information and materials as are necessary to an understanding of past trends, present conditions, and forces at work to cause changes in these conditions, and provide data for estimates of future conditions. Such information and material may include maps and photographs of man-made and natural physical features, statistics on trends and present and future estimated conditions with respect to population, property values, economic base, land uses, municipal services, various parameters of environmental quality, and such other information as is important or likely to be important in determining the amount, direction and kind of development to be expected in the town and its various parts and the necessary regulation thereof to insure that the unique and natural characteristics of the island be preserved.
- (2) Prepare principles and policies for guiding land uses and development in the town in order to preserve the unique and natural characteristics of the island, to overcome the

## Fences and Walls

**Sec. 34-1744. Location and height of fences and walls.**

(a) **Setbacks.** Except as may be specifically permitted or required by other sections of this chapter or chapter 10, no fence or wall, excluding seawalls, shall be erected, placed, or maintained:

- (1) Within any street right-of-way or street easement, or closer than 3 feet to any sidewalk or bike path or to the right-of-way of Estero Boulevard.
- (2) Closer to the Gulf of Mexico than permitted by ch. 6, article III.
- (3) Closer than five feet to the mean high-water line along natural water bodies, including canals created from sovereign lands, except that, where the canal is seawalled, the fence may be built immediately landward or on top of the seawall.

(b) **Height.** The maximum height for fences and walls, measured from the existing elevation of the abutting property, is illustrated in Figure 34-29 and described as follows:

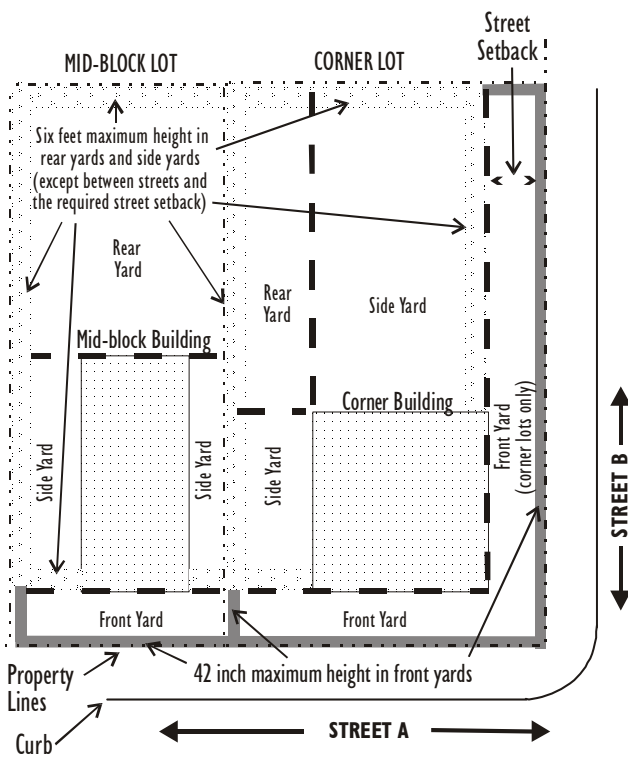


Figure 34-30

- (1) **Front yards.** Any fence or wall located in a front yard (between a street right-of-way or easement and the minimum required street setback or build-to line) shall not exceed 42 inches in height, except as provided in subsection 34-1744(b)(4) below. This division does not excuse any fence wall from compliance with any lesser height required to meet vehicle visibility requirements (see § 34-3131) at traffic access points.
- (2) **Side and rear yards.** Any fence or wall located in a side or rear yard shall not exceed six feet in height.
  - a. For purposes of this requirement, the side yard does not include any portion of the lot between a street and the minimum required street setback or build-to line.
  - b. Where a side or rear yard slopes downward from the street, a fence may be up to seven feet above the elevation of the abutting property to avoid unnecessary variations in the height of a fence.
- (3) **Near water bodies.** Within 25 feet of a body of water, those portions of a fence that exceed 42 inches in height cannot be more than 25% opaque (as viewed from perpendicular to the fence).
- (4) **Exceptions:**
  - a. **Architectural features.** Fences and walls may include occasional architectural features such as columns, posts, gates, and arbors at a height not exceeding 84 inches. All such features must be visually compatible with the fence or wall design.
  - b. **Administrative setback variances.** Under certain limited circumstances, administrative variances can be granted to minimum setbacks as provided in § 34-268.
  - c. **Enclosure of high-voltage transformers.** See § 34-1748.
  - d. **Screening of refuse containers.** On sites where the location and configuration of existing structures and vehicle use areas prevent the placement of refuse containers outside the front yard, fences and/or walls erected for the sole purpose of providing reasonable screening of refuse containers located in a front yard may exceed 42 inches in height, but must not exceed six feet in height.



## Fences and Walls

### **Sec. 34-1745. Buffer for commercial uses.**

Some land uses are required to provide perimeter buffers in accordance with §§ 34-3005 or 10-416. Where buffers are required by other provisions of this code, this division will not interpreted to restrict the height, location, or other features of required buffers.

### **Sec. 34-1746. Reserved.**

### **Sec. 34-1747. Construction in easements.**

Nothing in this division shall be construed so as to permit the construction or placing of any construction within a public or private easement which prohibits such construction or placement.

### **Sec. 34-1748. Enclosure of high-voltage transformers and other utility equipment.**

All substation high-voltage transformers and any other utility structures or equipment of potential hazard to residents or passersby not otherwise protected shall be completely enclosed by a fence not less than eight feet in height. On top of the fence shall be three strands of barbed wire with a six-inch spacing in between each strand. However, chain link and other non-decorative wire fences may not be used in front yards (the area between a street right-of-way or easement and the minimum required street setback or build-to line).

### **Sec. 34-1749. Entrance gates.**

(a) Entrance gates are not permitted on public or private streets. Decorative entrance features that do not restrict access may be placed along public or private streets provided permission is granted by the town and others entity with authority over the right-of-way or easement.

(b) Entrance gates may be placed on private property that is not subject to any access easements in order to control access to a private parking lot or to a parking lot that lawfully rents parking spaces to the general public. Adequate stacking space must be provided in front of the gate to avoid interference with traffic flow on adjoining streets.

(c) Access for emergency vehicles must be provided to any existing entrance gates on private streets.

- (1) Any security gate or similar device that is not manned 24 hours per day must be equipped with an override mechanism acceptable to the local emergency services agencies or an override switch installed in a glass-covered box for the use of emergency vehicles.
- (2) If an emergency necessitates the breaking of an entrance gate, the cost of repairing the gate and the emergency vehicle if applicable, will be the responsibility of the owner or operator of the gate.

### **Secs. 34-1750--34-1770. Reserved.**

**Sec. 34-1984. Other use of loading areas.**

Except as provided in § 34-2019, off-street loading areas shall not be utilized for the sale, repair, dismantling, or servicing of any vehicles or equipment, except on an emergency or temporary basis.

**Sec. 34-1985. Screening.**

When any off-street loading area is located adjacent to a residential use or zoning district, and is not otherwise entirely visually screened from it at ground level, there shall be provided a continuous visual screen along the lot line abutting the residential use in accordance with division 17 of this article or ch. 10, whichever is the most restrictive.

**Sec. 34-1986. Loading area required; loading plan; location of loading area.**

(a) All commercial and other nonresidential uses on sites larger than 1 acre shall be provided with an off-street loading area for receiving and shipment of commodities.

(b) A plan for off-street loading areas shall be provided as part of the site plan submitted in accordance with the regulations and procedures set forth in ch. 10, or, if the development is exempt from ch. 10, then a plan shall be submitted at time of application for a building permit and be reviewed by the director for consistency with this division and this chapter.

(c) The location of all off-street loading areas shall embody the following provisions:

- (1) The required loading area shall be provided on the same lot or parcel it serves or within 300 feet of that parcel.
- (2) The surfaced portions of all loading areas, excluding driveways, shall observe a 20-foot setback from all right-of-way lines and a ten-foot setback from all property under separate ownership or control.
- (3) Loading spaces shall be so located as not to obstruct or otherwise hinder or endanger the movement of vehicles and pedestrians.
- (4) Off-street loading areas shall not be placed between the principal building and a street right-of-way line.

**Sec. 34-1987. Number of spaces.**

(a) Establishments which normally receive or ship commodities via small panel trucks or vans shall not be required to provide off-street loading areas and may utilize the parking area, provided:

- (1) Deliveries normally are received before or after normal hours open to the public.
- (2) No delivery truck remains in the parking lot for more than four hours.
- (3) Deliveries do not interfere with normal pedestrian or vehicle movements.

(b) Establishments which receive or ship goods via large semitrailer or full trailer trucks shall provide a minimum of one loading space for the first 10,000 square feet of floor area, plus one space for each additional 20,000 square feet of floor area or major fraction thereof.

**Secs. 34-1988--34-2010. Reserved.**

## Parking

### DIVISION 26. PARKING

#### Sec. 34-2011. Types of parking facilities.

Parking facilities in the Town of Fort Myers Beach take a variety of forms, generally classified as follows:

(a) **Single-purpose parking lots.** Single-purpose parking lots are designed to serve individual businesses, multiple-family buildings, mixed-use buildings, and multiple-occupancy complexes. Single-purpose parking lots are usually located on the same parcel as the use(s) they serve and may include parking spaces under a building or in a parking garage.

- (1) Most single-purpose parking lots are considered by this code to be accessory uses of land (§ 34-1171) and thus can be built to serve any permitted principal use on the same parcel of land.
- (2) Some single-purpose parking lots serve two or more non-abutting parcels, as provided in § 34-2018 for joint-use parking lots.
- (3) Surplus spaces in some single-purpose parking lots may be rented to the general public during peak periods, as provided in subsection 34-2019(a).

(b) **Shared parking lots.** Shared parking lots are open to the public, generally for a fee, regardless of the destination of the person parking there. Shared parking lots may be operated as a private business or by a governmental entity, and may include a surface parking lot and/or a parking garage.

- (1) All seasonal shared parking lots require permits that may be issued administratively as provided in § 34-2022 of this chapter.
- (2) Permanent shared parking lots are considered a principal use of a parcel of land and may be approved in certain zoning districts only by special exception or through the planned development zoning district procedures.
- (3) Parking garages that operate in whole or part as shared parking lots are also considered a principal use of land and may be approved only through the planned development zoning district procedures (see §§ 34-620(d) and 34-676(e))

(c) **On-street parking.** Governmental entities sometimes provide on-street parking spaces, usually with parking meters, that are available for use by the public regardless of their destination. On-street parking is closely related to the functioning of the adjoining street and is provided as a public works project rather than being regulated as a land development activity by this code.

#### Sec. 34-2012. Definitions.

For purpose of this division only, certain words or phrases are defined as follows:

**Employees** means the regular working staff, paid, volunteer, or otherwise, at maximum strength and in full-time equivalent numbers, necessary to operate, maintain, or service a given facility or use under normal levels of service.

**High turnover** applies to parking lots where vehicles are parked for relatively short periods of time ranging from a few minutes to several hours. Customer parking for retail stores, restaurants, bars, offices, or similar establishments is considered to be high turnover.

**Low turnover** applies to parking where vehicles are parked for relatively long periods of time, such as employee parking during the day, uses such as beach parking or marina parking where customers typically leave their cars for periods of several hours or more, and overnight parking in residential developments.

**Parking aisle** means an accessway within a parking lot that provides direct access to individual parking spaces.

**Parking lot** means an area of land designed, used, or intended for parking five (5) or more vehicles.

**Parking lot entrance** means the accessway which provides ingress or egress from a street right-of-way or easement to a parking lot.

**Parking space** means an area of land designed or intended for parking one (1) vehicle. Some parking spaces are designated as disabled spaces.

## Parking

### Sec. 34-2013. Access.

(a) Each parking lot must have a distinct parking lot entrance. Such entrance must meet the requirements of ch. 10, as well as the following:

- (1) Minimum width at the property line for one-way entrances is 10 feet.
- (2) Minimum width at the property line for two-way entrances is 20 feet.
- (3) Maximum width at the property line is 25 feet.

The director may determine that traffic volumes, truck traffic, or other special circumstances warrant other requirements.

(b) Parking lot entrances must not exceed a six percent grade for 20 feet into any lot or parcel. A parking lot entrance must not enter a street right-of-way or easement at an angle of less than 90 degrees unless a lesser angle is approved by the director.

### Sec. 34-2014. Parking plan.

A parking plan is required for all uses, except single-family and two-family dwelling units, and must be submitted for review and approval in accordance with ch. 10. Developments that are not required to be approved in accordance with chapter 10 must submit plans to the director prior to issuance of a building permit. The plan must accurately designate the required parking spaces, parking aisles, and parking lot entrance, as well as the relation of any off-street parking facilities to the uses or structures such facilities are designed to serve.

### Sec. 34-2015. Location and design.

The location and design of all parking lots must comply with the following provisions:

- (1) **Location.** Parking spaces that are required to support specific land uses (see § 34-2020) must be provided on the same premises and within the same zoning district as the use they serve, except in the DOWNTOWN zoning district as provided in § 34-676(a). Joint-use parking lots are regulated by § 34-2018.
- (2) **Design.** In addition to the requirements set forth in this division, all parking lots must be designed in accordance with the buffer,

landscaping, drainage, and other requirements of this code.

- (3) **Lighting.** If the parking lot is to be used at night, adequate lighting must be provided for the driveways, ingress, and egress points, and parking areas of all commercial and industrial uses. Such lighting must be so arranged and directed as to eliminate glare on any other use, and must comply with applicable sea turtle lighting restrictions in ch. 14.
- (4) **Stacking.** All individual parking spaces must be accessible from a parking aisle intended to provide access to the space. Stacking of vehicles (one behind the other) may be permitted only where each dwelling unit has a specific garage or driveway appurtenant to it and in valet parking facilities wherein parking is performed only by employees of the facility.
- (5) **Exiting.** All parking lots must be provided with sufficient maneuvering room so as to allow an exiting vehicle to leave the parking lot in a forward motion, except where approved by the director under the following conditions:
  - a. The right-of-way is a local street and:
    1. there is insufficient room on the parcel for vehicles to turn and exit in a forward direction, and
    2. the number of parking spaces backing out are no more than the minimum required by this division to serve existing buildings; or
  - b. The parking spaces are in the “Pedestrian Commercial” category of the comprehensive plan and do not unduly interfere with critical congested road segments or the normal usage of existing or proposed sidewalks.
- (6) **End spaces.** Parking lots utilizing 90° parking with dead-end aisles must provide a turning bay for those spaces at the end of the aisle.
- (7) **Pedestrian system.** In any parking lot where more than one tier of parking spaces is to be developed, walkways must be provided which accommodate safe and convenient pedestrian movement.

# Parking

**Sec. 34-2016. Dimensional requirements; delineation of parking spaces.**

In addition to satisfying all other provisions of this division, the arrangement and spacing of off-street parking lots must conform to the following requirements:

- (1) **Minimum dimensions.** Minimum aisle widths and parking space dimensions shall be as follows:

Angle of Parking	AISLE WIDTHS		PARKING SPACES	
	One-Way (feet)	Two-Way (feet)	Width (feet)	Length (feet)
Parallel	10	20	7	20
45° -50°	11	20	8.5	
55° -60°	14	22	8.5	
70° -75°	17	22	8.5	
90°	20	22	8.5	18

- (2) **Effect of minimum dimensions on size of parking lots.** The following table illustrates the effect of the minimum aisle and parking space dimensions on the size of parking lots, keyed to the dimensions indicated in Figure 34-30.

DIMENSION (in feet):		45°	60°	75°	90°
Stall width	A	8.5	8.5	8.5	8.5
Stall width (parallel to aisle)	B	12.0	9.8	8.8	8.5
Aisle width (one-way travel)	C	11.0	14.0	17.0	20.0
Stall depth (interlock)	D	15.3	17.5	18.6	18.0
Stall depth (to wall)	E	17.5	19.1	19.4	18.0
Module (interlocking)	F	41.6	49.0	54.2	56.0
Module (wall to interlock)	G	43.9	50.6	55.0	56.0
Module (wall to wall)		46.0	52.2	55.8	56.0

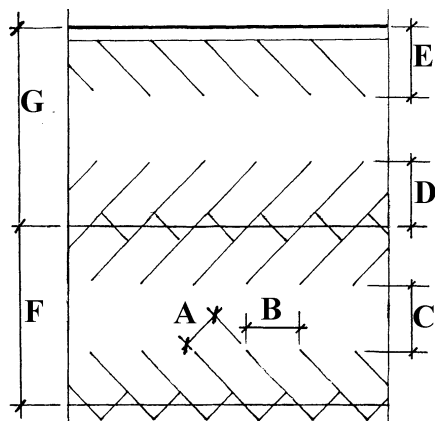


Figure 34-31

- (3) **Disabled space dimensions.** Individual disabled parking space dimensions must be 12 feet by 18 feet. Parking access aisles must be no less than 5 feet wide and must be part of an accessible route to the building or facility entrance. These dimensions do not guarantee compliance with the Americans with Disabilities Act (ADA) of 1990.

- (4) **Delineation of spaces.**

a. *Paved parking lots.*

1. Parking spaces must be delineated by all-weather painted lines, not less than four inches in width, centered on the dividing line between spaces.
2. Parking spaces for the disabled must be prominently outlined with blue paint, and must be repainted when necessary to be clearly distinguishable as a parking space designated for persons who have disabilities and must be posted with a permanent above-grade sign bearing the international symbol of accessibility and the caption "PARKING BY DISABLED PERMIT ONLY." Signs erected after October 1, 1996 must indicate the penalty for illegal use of these spaces.

b. *Unpaved parking lots.*

1. Perimeter parking spaces in unpaved parking lots must be delineated by placing a parking block three feet from the end of the parking space and centered between the sides of the space.
2. If a perimeter space abuts a structure, the space may be indicated on the structure, in which case parking blocks are not required.
3. Parking spaces for the disabled must be clearly distinguishable as a parking space designated for persons who have disabilities and must be posted with a permanent above-grade sign bearing the international symbol of accessibility and the caption "PARKING BY DISABLED PERMIT ONLY." Signs erected after October 1, 1996 must indicate the penalty for illegal use of these spaces. Parking spaces for the disabled must comply with all other

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applicable requirements of state law and the Florida Building Code.

### Sec. 34-2017. Parking lot surfaces.

(a) **High turnover parking lots.** Except as provided in this section, all high turnover parking lot aisles and parking spaces must be a paved surface, except for the open space beyond parking blocks. The term “paved” means and includes asphalt, concrete, brick, paving blocks, porous (pervious) asphalt or concrete, and other similar treatments. Clean (washed) angular gravel (such as FDOT #57 stone) may also be used if stabilized as provided in subsection (b)(1).

- (1) Any parking spaces that may be permitted, seaward of the 1978 coastal construction control line shall be stabilized with best management practices approved by the director.
- (2) All disabled parking spaces, including disabled parking spaces seaward of the coastal construction control line, must comply with applicable requirements of state law and the Florida Building Code.

(b) **Low turnover parking lots.** Due to the low volume of vehicle turnover in this type lot, alternative unpaved surfaces may parking lot can provide some or all of the required parking spaces for two (2) or more unrelated busin also be permitted provided that the areas are adequately drained and continuously maintained in a dustfree manner.

- (1) Alternative surfaces may include stabilized surfaces of grass or clean (washed) angular gravel over a well-drained base, or other similar porous materials. Stabilization may be accomplished by turfblocks (concrete or plastic) or proprietary cellular or modular porous paving systems installed in accordance with manufacturers’ specifications.
- (2) Crushed limerock that has not been washed or otherwise processed to remove fine particles will be permitted as a surface material only when designed, placed, and maintained in a manner that will:
  - a. prevent the flow of sediment-laden runoff from the lot, and
  - b. keep the surface dust-free at all times.

- (3) The use of unimproved surfaces such as sand or dirt as approved parking shall be prohibited.
- (4) Disabled spaces must comply with applicable requirements of state law and the Florida Building Code.

### (c) **Reduced surfacing standards**

- (1) The director is authorized to permit portions of high turnover parking lots (including parking lot aisles), to meet the surfacing standards for low turnover parking lots (§ 34-2017(b), above) when the reduced surfacing standard will be used in those portions of the parking lot expected to receive the lightest usage, such as overflow or employee parking areas.
- (2) This subsection must not be construed inconsistently with the Americans with Disabilities Act (ADA) of 1990.

(d) **Reservation of spaces for future use.** When a use or activity is required by this chapter to provide more than ten (10) high turnover parking spaces, the director may approve leaving up to 25 percent of the required spaces as landscaped areas reserved for future use, provided that:

- (1) The applicant clearly shows the reserved parking spaces on the site plan;
- (2) The reserved parking areas must not be counted towards the minimum open space or landscaping or buffering requirements of this chapter or chapter 10;
- (3) All drainage facilities shall be calculated and built as though the reserved parking areas were impervious surfaces; and
- (4) The reserved parking areas must not be used for any purpose other than landscaped open space or temporary overflow parking during special holiday seasons or sales.

Should the property owner decide to pave the reserved area for parking, he must submit the original site plan or development order approval to the director, who is authorized to approve the paving provided that such paving does not include any new entrances onto a public street. If the parking areas does involve new entrances, then a limited review development order is required.

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### Sec. 34-2018. Joint use of parking lots.

(a) A single-purpose parking lot can provide some or all of the required parking spaces for two (2) or more unrelated businesses, provided that such joint-use parking lot:

- (1) is built on a parcel where a commercial parking lot is permitted, and
- (2) is placed on the parcel so as not to violate any applicable build-to lines or block visibility of vehicles (see § 34-3131), and
- (3) is built to the same standards as a single-purpose parking lot, and
- (4) is located within 750 feet of each business.

(b) The peak parking demands of the different uses must occur at different times. The director may require an applicant to provide a technical analysis of the timing and magnitude of the proposed parking demands.

(c) Applications for joint-use parking lots must include:

- (1) A notarized statement from all property owners involved indicating the use of each property and forecasting that the peak level of activities of each separate building or use which create a demand for parking will occur at different times.
- (2) A draft joint-use parking agreement, acceptable to the town, that:
  - a. specifically identifies the designated spaces that are subject to the agreement;
  - b. includes a statement indicating that the parties understand that these designated spaces cannot be counted to support any use other than those identified in the agreement;
  - c. identifies the current property uses, property owners, and the entity responsible for maintenance of the parking area.
  - d. includes a backup plan to provide sufficient parking if the joint-use parking agreement is violated by either party.
- (3) Upon approval of the agreement by the town, the agreement(s) must be recorded in the Lee County public records at the applicant's expense.
- (4) A certified copy of the recorded joint-use parking agreement must be provided to the

town before any joint-use of parking spaces may commence.

### Sec. 34-2019. Other use of parking lots.

(a) Parking spaces that are not in daily use and are located in parking lots having ten (10) or more parking spaces and meeting the other requirements of this division may be rented to the general public during peak periods.

(b) The following structures and uses may be approved in parking lots by the director provided that a site plan is submitted showing that the structure will not reduce the parking spaces required for the principal use, or create a traffic or pedestrian hazard:

- (1) Charitable or other similar drop-off collection stations.
- (2) Aluminum can or other similar receiving machines or facilities.
- (3) Photo pickup stations.
- (4) Telephone booths and pay telephone stations.
- (5) Automatic teller machines (ATMs).
- (6) Other similar uses that do not unreasonably interfere with the normal functioning of the parking lot.

(c) Except as provided in this section and for ancillary temporary uses as provided in § 34-3048, required parking areas must not be utilized for the sale, display, or storage of merchandise, or for repair, dismantling, or servicing of any vehicles or equipment. This subsection does not prohibit a residential property owner from the occasional servicing of his own noncommercial vehicle or conducting normal residential accessory uses.

### Sec. 34-2020. Required parking spaces.

(a) *New developments.* New residential and nonresidential uses must provide off-street parking spaces in single-purpose parking lots in accordance with the standards specified in this section, as modified by certain reductions as provided in the DOWNTOWN and SANTINI zoning districts (see division 5 of article III).

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(b) **Existing developments.** Existing buildings and uses may be modernized, altered, or repaired without providing additional parking spaces, if there is no increase in total floor area or capacity.

- (1) Existing buildings or uses enlarged in terms of floor area must provide additional parking spaces for the enlarged floor area in accordance with the standards specified in this section.
- (2) When the use of a building is changed to a different use that is required to have more parking than exists, the additional parking must be provided in accordance with the standards specified in this section.

(c) **Bicycle parking.** Commercial, multiple-family, and mixed-use buildings may eliminate one (1) required parking space by providing and maintaining a bicycle rack able to hold four (4) bicycles.

(d) **Minimum parking standards.**

(1) **RESIDENTIAL USES.**

- a. **Dwelling units with individual driveways:** The minimum requirement is 2.0 spaces for each dwelling unit. Stacking of vehicles in the driveway is permitted.
- b. **Dwelling units with common parking lots:** Minimum requirements are as follows:
  1. Studio or efficiency: 1.0 spaces per unit.
  2. One bedroom: 1.25 spaces per unit.
  3. Two bedrooms: 1.25 spaces per unit.
  4. Three or more bedrooms: 1.5 spaces per unit.
  5. Live/work units: 2.0 spaces per unit.
 Stacking of vehicles is not permitted except as provided in § 34-2015(5).
- c. **Timeshare units:** Parking requirements are the same as for multiple-family buildings. If lock-off accommodations are provided, 0.5 extra spaces per lock-off unit are required.
- d. **Living units without kitchens:** Living units that do not contain customary cooking facilities within the individual units but instead have a central kitchen for food preparation and where meals are served in a central dining area or individual rooms must provide one (1) parking space per four (4) residents or four (4) beds

(whichever is greater), plus ten percent (10%).

- e. **Group quarters, excluding living units subject to § 34-2020(d)(1)d.** The minimum requirement is one (1) parking space per bedroom or one (1) space per two (2) beds, whichever is greater.

(2) **COMMERCIAL USES.**

- a. **Bars and cocktail lounges.** The minimum requirement is 15 spaces per 1,000 square feet of total floor area. If outdoor seating is provided, an additional one (1) space per four (4) outdoor seats or 75 square feet of outdoor seating area (whichever is greater) must be provided. See also subsection (2)h of this section, pertaining to restaurants, and subsection (4) of this section.
- b. **Bed-and-breakfast inns.** The minimum requirement is one (1) parking space for each guest room plus one (1) space for the owners' quarters.
- c. **Car washes.** The minimum requirement is two (2) spaces per car wash stall or space, plus drive-through facilities (see subsection (2)d of this section). Each individual car wash stall or space may count as one (1) of the required two (2) parking spaces per stall.
- d. **Drive-through facilities.** Where permitted, any commercial establishment providing drive-through service windows or stalls must provide separate vehicle stacking for those uses. For the purpose of this section, a stacking unit is defined as 18 feet in length and 9 feet in width. The total number of stacking units required is based on the type of business, as follows:
  1. **Banks and financial establishments:** Stacking lanes to accommodate three (3) cars per window.
  2. **Car washes:** Stacking to accommodate one (1) car per service stall or three (3) cars, whichever is greater.
  3. **Restaurants:** New or expanded drive-through facilities are not permitted for restaurants (see § 34-620(g)). For existing drive-through facilities that are being lawfully reconfigured, stacking lanes to accommodate six (6) cars per



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- service lane, with a minimum of four (4) spaces preceding the menu board.
4. *Other*: Stacking for two (2) cars.
  - e. **Hotels and motels**. The minimum requirement is 1.2 parking spaces for each guest unit up to 450 square feet and 1.5 spaces for each larger guest unit.
  - f. **Offices**. This category includes offices of all types not specifically listed elsewhere, including banks and medical facilities. The minimum requirement is two (2) spaces per 1,000 square feet of total floor area. See also subsection (2)d. of this section pertaining to vehicle stacking for drive-through facilities.
  - g. **Personal services**. The minimum requirement is five (5) spaces per 1,000 square feet.
  - h. **Restaurants**. With the exceptions noted below, the minimum parking requirements for restaurants is eight (8) spaces per 1,000 square feet of total floor area plus any outdoor seating area.
    1. *Accessory restaurant*. When a restaurant is located within the same building as the principal use, and is clearly provided primarily for the employees and customers of the principal use, no additional parking spaces are required.
    2. *Bars and cocktail lounges*. If the restaurant contains a cocktail lounge or bar, the minimum requirement is eight (8) spaces per 1,000 square feet of total floor area plus five (5) additional spaces per 1,000 square feet of floor area used for the bar or cocktail lounge. If outdoor seating is provided, parking must also be provided for the area used for outdoor seating at these same rates.
  - i. **Retail stores, freestanding**. This subsection applies to individual retail or business establishments. Any retail establishment proposing drive-through facilities must also meet the requirements of subsection (2)d of this section.
    1. *Convenience food and beverage stores*. The minimum requirement is four (4) spaces per 1,000 square feet of total floor area. If more than 20% of the total floor area or 600 square feet, whichever is less, is used for the preparation and/or sale of food or beverages in a ready-to-consume state, parking required for this area is the same as a restaurant. One (1) parking space per four (4) pumps will be credited against the required parking.
    2. *Other retail or business establishments*. The minimum parking requirement is three (3) spaces for each 1,000 square feet of total floor area. Required parking for areas within the principal building that are used only for dead storage and are not available to the public is two (2) spaces per 1,000 square feet.
    - j. *Warehousing (mini-warehouses)*. The minimum requirement is one (1) space per 25 storage units, with a minimum of three (3) spaces.
    - k. *Wholesale establishments*. The minimum requirement is one (1) space per company vehicle plus one (1) space per 1,000 square feet of total floor area.
- (3) **MISCELLANEOUS USES.**
- a. **Educational institutions.**
    1. *Public schools*. Parking must be provided in compliance with state law.
    2. *Private or parochial schools and day care centers*. The minimum requirement is one (1) space per employee plus one (1) space for each 40 students.
  - b. **Marinas and other water-oriented uses.** Minimum requirements are as follows:
    1. *Boat slips*: One (1) space per two (2) slips.
    2. *Dry storage*: One (1) space per six (6) unit stalls.
    3. *Charter or party fishing boat services*: One (1) space per three (3) people based on maximum passenger capacity of the boats using the dock or loading facility.
    4. *Cruise ships*: One (1) space per three (3) people based on the maximum passenger and crew capacity of the ship.
    5. *Water taxis*: Dedicated parking spaces are not required at stopping points for water taxis or water shuttles.
    6. *Other uses*: Other uses including accessory or ancillary marina uses such as restaurants, bars, or lounges, boat

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- sales, etc. must be calculated separately in compliance with this division.
- c. **Museums, art galleries, libraries,** and other similar uses not covered elsewhere: The minimum requirement is one (1) parking space for each 500 square feet of total floor area.
  - d. **Places of worship and religious facilities.** Refer to division 27 of this article.
  - e. **Recreation facilities, indoor.** The minimum requirement is one (1) parking space for each 150 square feet of total floor area.
  - f. **Theaters, auditoriums, meeting halls, and other similar places of public assembly, not covered elsewhere.** The minimum requirement is one (1) parking space for each four (4) seats plus one (1) space per employee
  - g. **Carnivals, fairs, and amusement attractions and devices.** The minimum requirement is five (5) parking spaces provided for each permanent amusement device.
- (4) **COMBINED USES.** The number of parking spaces required for combined uses is the total of the spaces required for each separate use established by this schedule. Exceptions are as follows:
- a. **Joint use of parking lots.** As provided in § 34-2018,
  - b. **Multiple-occupancy complexes.** This subsection applies to multiple-occupancy complexes where five (5) or more individual business establishments are located and that all share a common parking area. Specifically excluded from this subsection are theaters and hotels. Minimum requirements are as follows:
    1. If the complex contains less than 25% of its gross floor area as restaurants, bars, and cocktail lounges, two (2) spaces per 1,000 square feet.
    2. If the complex contains 25% to 50% of its gross floor area as restaurants, bars, and cocktail lounges, four (4) spaces per 1,000 square feet.
    3. If the complex contains 50% to 75% of its gross floor area as restaurants, bars, and cocktail lounges, six (6) spaces per 1,000 square feet.
    4. If the complex contains over 75% of its gross floor area as restaurants, bars, and cocktail lounges, eight (8) spaces per 1,000 square feet.
- (5) **USES NOT SPECIFICALLY LISTED.** Uses not specifically mentioned in this chapter must provide the same number of off-street parking spaces as for the most similar use.
- Sec. 34-2021. Reserved.**
- Sec. 34-2022. Seasonal parking lots.**
- (a) Each permitted seasonal shared parking lot may operate for a period up to 8 months, commencing on November 15 and continuing until July 15 of the succeeding year. Prior to commencing its operation for all or any portion of each 8-month period beginning November 15 and ending July 15 of the succeeding year, a seasonal shared parking lot must obtain a seasonal parking lot permit in compliance with this code.
  - (b) A seasonal parking lot must comply with the following regulations:
    - (1) A seasonal parking lot may only be permitted in accordance with article III, division 2 of this chapter, or in a planned development zoning district where a shared permanent parking lot or seasonal parking lot is included in the approved schedule of uses.
    - (2) Ingress and egress to seasonal parking lots must not be through a residential neighborhood or residentially zoned district.
    - (3) The applicant must submit to the director a parking plan, drawn to scale, indicating the location of access points, ropes, and posts, and the circulation pattern within the parking lot.
    - (4) Individual spaces in seasonal parking lots do not need to be delineated provided the end of each space and all aisles are clearly delineated with temporary posts and ropes.
    - (5) Seasonal parking lots do not need to be surfaced, but must be maintained as a

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- planted area or otherwise in a dust-free manner.
- (6) Seasonal parking lots must be designed so as to permit vehicles exiting the lot to enter the street right-of-way in a forward motion. The seasonal parking lot, where applicable, must utilize an existing entrance or exit, except that additional traffic must not be directed onto residential streets. Where no access exists, a parking lot plan showing an acceptable temporary access point(s) may be approved by the director.
  - (7) If the seasonal parking lot is to be used at night, adequate lighting must be provided for the driveway's ingress and egress points. The lighting must be directed to eliminate glare on any other use and must comply with applicable sea turtle lighting restrictions provided in ch. 14.
  - (8) The seasonal parking lot must be secured in a manner that prohibits ingress and egress except during the designated hours of operation.
  - (9) The seasonal parking lot must not adjoin or be less than ten (10) feet from residential uses or residentially zoned property.
  - (10) The seasonal parking lot must be supervised by a parking attendant during its posted hours of operation.
  - (11) The seasonal parking lot must only be used for the parking of operable motor vehicles, with no overnight parking or camping.
  - (12) Hours of operation must not begin earlier than 7:00 A.M. and must end no later than 10:00 P.M., unless extended by the director in writing.
  - (13) The parking spaces created through the approval of seasonal parking lots must not be used for calculating off-street parking requirements as set out in § 34-2020.
  - (14) Intersections of parking lot entrances and exits with street rights-of-way and easements must comply with § 34-3131.
  - (15) Seasonal parking lot signs must comply with requirements for commercial development signs in § 30-151, except that the signs may remain in use for the duration of the seasonal parking lot permit. These signs must be created and displayed in a professional manner. The director may require the removal of any signs that do not comply with these standards. Seasonal parking lot signs must be removed immediately upon expiration of the seasonal parking lot permit.
  - (16) The director may require visual screening between a seasonal parking lot and any residentially zoned or used property. If additional screening is required by the director, it must be installed within 30 days of written notice to the property owner or parking lot operator or the seasonal parking lot permit will be null and void.
    - (c) As of November 15, 2010, a total of three (3) consecutive or non-consecutive seasonal parking lot permits may be issued for a parcel without requiring compliance with the requirements below. Prior to issuance of the fourth (4<sup>th</sup>) and each subsequent consecutive or non-consecutive permit for that parcel, the permit applicant must comply with the following requirements:
      - (1) Where the parcel of land containing a seasonal parking lot abuts residentially zoned or used property, that portion of the parking lot must be buffered by a continuous visual screen with a minimum opacity of 50 percent and a minimum height of three (3) feet. This screen may contain a combination of walls, fences, railings, and shrubs. Walls, fences, and railings may not exceed the maximum heights established by this code. The visual screen may be located as close as one (1) foot from the right-of-way or street easement line but not closer than five (5) feet from the edge of a travel lane, and must comply with § 34-3131. The director may require more extensive screening if the height, character, and location of the screen does not or may not adequately protect the abutting property from excessive impacts from the seasonal parking lot. Additional screening required by the director must be installed within 30 days of written notice to the property owner or parking lot operator, or the temporary use permit will be null and void.
      - (2) Where a seasonal parking lot abuts a street, that portion of the parking lot must be buffered by a continuous visual screen with a minimum opacity of 25 percent and a minimum height of three (3) feet. This

visual screen must contain a combination of walls, fences, railings, and shrubs. The visual screen must be located not less than one (1) foot from the right-of-way or street easement line and must comply with § 34-3131. Walls, fences, and railings must not exceed the maximum heights established by this code.

**Secs. 34-2023--34-2030. Reserved.**

**DIVISION 26-A.  
PERFORMANCE STANDARDS**

**Sec. 34-2031. Performance standards, environmental quality.**

All uses and activities permitted by right, special exception, or temporary use permit in any zoning district, including planned development districts, shall be constructed, maintained, and operated so as to:

- (1) comply with all local, state, and federal air, and noise, and water pollution standards, and
- (2) not adversely impact water quality.

**Sec. 34-2032. Performance standards, creation of nuisance.**

All uses and activities permitted by right, special exception, or temporary use permit in any zoning district, including planned development districts, shall be constructed, maintained, and operated so as to:

- (1) not be injurious or offensive and thereby constitute a nuisance to the owners and occupants of adjacent premises, nearby residents, or to the community, by reason of the emission or creation of noise, vibration, smoke, dust, or other particulate matter, toxic or noxious waste materials, odors, fire or explosive hazard, light pollution, or glare; and
- (2) not cause light from a point source of light to be directed, reflected, or refracted beyond the boundary of the parcel or lot, onto adjacent or nearby residentially zoned or used property or onto any public right-of-way, and thereby constitute a nuisance to owners or occupants of adjacent premises, nearby residents, or to the community; and

- (3) ensure all point sources of light and all other devices for producing artificial light are shielded, filtered, or directed in such a manner as to not cause light trespass; minimum standards are provided in division 20 of this article.

**Secs. 34-2033--34-2050. Reserved.**

**DIVISION 27. PLACES OF WORSHIP AND RELIGIOUS FACILITIES**

**Sec. 34-2051. Property development regulations.**

Places of worship and religious facilities shall adhere to the dimensional regulations of their zoning district (see Table 34-3).

**Sec. 34-2052. Parking.**

(a) *Places of worship.* Parking for places of worship shall be provided at the ratio of one parking space for each three seats within the sanctuary or main assembly hall, whichever is greater. Where benches, pews or other similar seating arrangements are used, each 24 lineal inches shall be counted as one seat.

(b) *Religious facilities.* Parking for religious facilities shall be the same as for places of worship, with additional parking for ancillary facilities as required in division 26 of this article; provided that, where the ancillary facilities will not be used at the same time, parking shall be based upon the peak anticipated attendance at any one time, for all facilities.

(c) *Parking on grass.* Up to 75 percent of the parking spaces required for the sanctuary or main assembly hall of a place of worship may be provided as parking on grass, provided the regulations set forth in the relevant sections of division 26 of this article, are met.

**Sec. 34-2053. Expansion of existing place of worship.**

Expansion of existing places of worship and religious facilities, lawfully existing as of August 1,

1986, by right or by special exception, is hereby declared a legal use. Additions, renovations, or other expansion of the main place of assembly may be permitted upon application for and approval of a building permit in accordance with all applicable town regulations.

**Sec. 34-2054. Living quarters.**

Dwelling units and living units that provide living quarters within a religious facility must comply with the density restrictions found in § 34-632.

**Secs. 34-2055--34-2080. Reserved.**

**DIVISION 28. RESERVED**

**Secs. 34-2081--34-2110. Reserved.**

**DIVISION 29. PRIVATE CLUBS AND MEMBERSHIP ORGANIZATIONS**

**Sec. 34-2111. Applicability of regulations to membership organizations.**

The listing in this code of membership organizations is not meant to limit or abridge the rights of assembly. Such organizations are not prohibited from meeting in various traditional and appropriate places. For example, a service club's weekly meeting at a restaurant in a district not otherwise allowing a membership organization shall not constitute a zoning violation. However, where such an organization is the principal user of real property for meetings, entertainment, and food and beverage service, such a meeting place, hall, or clubhouse shall be permitted only where this use is explicitly enumerated.

**Secs. 34-2112--34-2140. Reserved.**

**DIVISION 30. RECREATION FACILITIES**

**Sec. 34-2141. Applicability**

(a) The regulations set forth in this division for recreation facilities are in addition to any other applicable regulations. In the case of conflict, the most restrictive regulations shall apply.

(b) This chapter defines five types of recreation facilities (see § 34-2):

- (1) *Recreation facilities, commercial*, which are permitted by special exception in certain zoning districts.
- (2) *Recreation facilities, personal*, which are considered to be residential accessory uses.
- (3) *Recreation facilities, private ON-SITE*, which are permitted by right in certain zoning districts.
- (4) *Recreation facilities, private OFF-SITE*, which are permitted by special exception in certain zoning districts.
- (5) *Recreation facilities, public*, which are permitted by right in certain zoning districts.

(c) This chapter also defines *Park, neighborhood* and *Park, community or regional* (see § 34-2), both of which are permitted by right in certain zoning districts.

**Sec. 34-2142. Minimum lot area and setbacks.**

(a) All recreation facilities, whether a principal use or accessory use, shall be located on property meeting the minimum lot size and dimensions of the zoning district in which located as well as any additional area, width, or depth required to permit full compliance with all setbacks, ground cover, open space, buffering, drainage, and parking requirements as set forth in this chapter or ch. 10, whichever is most applicable.

(b) Minimum setbacks for uses subject to this division are as set forth in the property development regulations of the zoning district in which located.

(c) Additional setback requirements for specific uses are as follows:

- (1) *Recreation facilities, commercial*.  
Amusement devices, water slides, miniature golf, and other commercial recreation