

ORDINANCE 06-09

AN ORDINANCE AMENDING CHAPTER 34 OF THE TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE; PROVIDING AUTHORITY; AMENDMENTS TO SECTION 34.113, DIVISION 3 LOCAL PLANNING AGENCY, ARTICLE II ZONING PROCEDURES OF THE LAND DEVELOPMENT CODE WHICH IS TITLED "COMPOSITION, APPOINTMENT, AND COMPENSATION OF MEMBERS", PROVIDING FOR CHANGE IN NUMBERS OF MEMBERS OF THE LOCAL PLANNING AGENCY AND QUALIFICATION FOR MEMBERSHIP; AMENDMENTS TO SECTION 34.114, DIVISION 3 LOCAL PLANNING AGENCY, ARTICLE II ZONING PROCEDURES OF THE LAND DEVELOPMENT CODE WHICH IS TITLED "MEMBERS' TERMS AND VACANCIES", PROVIDING FOR CHANGE IN MONTH OF APPOINTMENT AND CHANGE IN COMPUTATION OF STAGGERED TERMS; AMENDMENT TO SECTION 34.115 OF THE LOCAL PLANNING AGENCY PROVIDING FOR CHANGE IN CONDITIONS FOR FORFEITURE OF OFFICE; SEVERABILITY; EFFECT OF ORDINANCE AND EFFECTIVE DATE.

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

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

SECTION 2. Composition, Appointment, and Compensation of Members of Local Planning Agency as set forth in Section 34-113(a) is amended to read as set forth below. Language being repealed from the existing code is indicated with ~~strikethroughs~~ and entirely new language is indicated with underlining.

SECTION 34-113 (a). The local planning agency shall consist of ~~not less than~~ up to seven ~~nor more than nine~~ 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 render a person ineligible 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 March 1 of the appointment year (however, for 2006 only, the application period is extended to April 19, 2006). Each application must be submitted on one 8 1/2" by 11" paper, and

must include a short biography and short explanation as to why the applicant wishes to serve on the local planning agency.

SECTION 3. Composition, Composition, Appointment, and Compensation of Members of Local Planning Agency as set forth in Section 34-113(c) is amended to read as set forth below. Language being repealed from the existing code is indicated with ~~strikethroughs~~ and entirely new language is indicated with underlining.

SECTION 34-113 (c). In addition to the up to seven ~~to nine~~ 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).

SECTION 4. Members' terms and vacancies of the Local Planning Agency as set forth in Section 34-114 (a) and (b) are amended to read as set forth below. Language being repealed from the existing code is indicated with ~~strikethroughs~~ and entirely new language is indicated with underlining.

SECTION 34-114(a). The term of office of a member of the local planning agency shall be staggered ~~three~~ 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 this amendment shall be ~~two~~ up to four members for a one year term and three members for a two year term. ~~and two for three years.~~ No member shall serve more than two (2) consecutive terms of two years each; however, after two (2) years out of office with this agency, any person who has previously served and is otherwise qualified may apply for re-appointment to this agency. This term limit will not be construed to apply to the members who are appointed for an initial one year term in 2006.

SECTION 34-114(b). Appointments shall be made annually at the first meeting of the council in ~~May~~ April; however, for 2006 only, appointments shall be made at the first general Council meeting subsequent to April 19, 2006. Vacancies in the local planning agency shall, within ~~thirty~~ sixty days, be filled by the council for the remainder of the term created by such vacancy.

SECTION 5. Provisions regarding the Forfeiture of Office of the Local Planning Agency as set forth in Section 34-115 are amended to read as set forth below. Language being repealed from the existing code is indicated with ~~strikethroughs~~ and entirely new language is indicated with underlining.

SECTION 34-115. 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 ~~consecutive~~ regular local planning agency meetings per year without being excused by the local planning agency.

SECTION 6. Severability. If any one of the provisions of this ordinance should be held contrary to any express provision of law or contrary to the policy of express law, although not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such provision shall be null and void and shall be deemed separate from the remaining provisions of this ordinance, and in no way affect the validity of all other provisions of this ordinance.

SECTION 7. Effect of Ordinance. The provisions of this Ordinance shall be deemed cumulative and supplemental and shall have no legal effect upon the ordinance establishing the Land Development Code of the Town of Fort Myers Beach, except as expressly provided.

SECTION 8. Effective Date. This ordinance shall become effective immediately upon its adoption.

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

Dennis Boback , Mayor	<u>Aye</u>
Don Massucco, Vice Mayor	<u>Aye</u>
Charles Meador, Jr.	<u>Aye</u>
William Shenko, Jr.	<u>Aye</u>
Garr Reynolds	<u>Aye</u>

DULY PASSED AND ENACTED this 20<sup>th</sup> day of March, 2006.

ATTEST:

TOWN OF FORT MYERS BEACH

By: Rachel Lambert  
Rachel Lambert, Town Clerk

By: Dennis C. Boback  
Dennis Boback, Mayor

Approved as to form by:

Anne Dalton  
Anne Dalton, Town Attorney