

ORDINANCE No. 03-11

AN ORDINANCE AMENDING CHAPTER 34, ARTICLE IV, DIVISION 37. SUBORDINATE AND TEMPORARY USES. SUBDIVISION II. TEMPORARY USES; PROVIDING AUTHORITY; AMENDING SECTION 34-3048. ANCILLARY TEMPORARY USES IN PARKING LOTS; ADOPTING A NEW SECTION 34-3051. TEMPORARY WELCOME STATIONS; PROVIDING SEVERABILITY; AND ESTABLISHING AN 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. AMENDING CHAPTER 34, ARTICLE IV, DIVISION 37, SUBDIVISION II, TEMPORARY USES, OF THE LAND DEVELOPMENT CODE. The amendments to Chapter 34 are contained in the attached **Exhibit A**. Entirely new language is indicated with underlining and language being repealed from the regulations is indicated with strike-throughs. The Amendments are found in Sec. 34-3048 Ancillary temporary uses in parking lots and a new Section 34-3051 Temporary Welcome Stations.

SECTION 3. 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 4. EFFECTIVE DATE. This ordinance shall take effect immediately upon its adoption.

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

Howard Rynearson ___
Daniel Hughes ___
Bill Thomas ___
W. H. "Bill" Van Duzer ___
Terry Cain ___

DULY PASSED AND ENACTED this ___ day of ___, 2003.

ATTEST:

TOWN OF FORT MYERS BEACH

By: _____
Marsha Segal-George, Town Clerk

By: _____
Daniel Hughes, Mayor

Approved as to form by:

Richard V.S. Roosa, Town Attorney

Exhibit A

34-3048 Ancillary temporary uses in parking lots

- (a) The following ancillary temporary uses may be permitted in parking lots upon application and issuance of a temporary use permit (see 34-3050):
- (1) Seasonal promotions
 - (2) Sidewalk or parking lot sales
 - (3) Fairs and carnivals (see 34-3042)
 - (4) Tent sales
 - (5) Flea markets by nonprofit organizations
 - (6) Welcome stations in accordance with section 34-3051, ~~operated by non-profit organizations that provide information without the sale or distribution of any product or service may be approved for a maximum of 90 days.~~

34-3051 Temporary Welcome Stations

- (a) **Defined.** Temporary welcome stations, are located in a mobile vehicle, either self-propelled or otherwise readily moveable from place to place, and are operated by a non-profit organization. Welcome stations are intended to promote community businesses and organizations and are therefore limited to providing information without the sale or distribution of any product or service. Welcome stations may not collect food, clothing or accept other donations.
- (b) **Type of Approval.**
- (1) Administrative
 - a. Length of Permit. A temporary permit may be issued for a maximum of 90 days or less, and may not be renewed or reissued to the same applicant or on the same premises for a period of six months from the date of expiration of the previous permit. An organization may request an annual permit to operate no more than 6 months during any one-year period. The six months may be consecutive or divided into two, three or four month periods. No more than 2 welcome stations may be operating at one time.
 - b. Location. Temporary welcome stations may be located in existing parking lots on property zoned commercial. The welcome station must be ancillary to the principal use and the required number of parking spaces for the principal use must be maintained.
 - c. Permit requirements. In addition to the requirements found in 34-3050, organizations must provide a photograph of the welcome station and its dimensions, the dates and

corresponding locations where the welcome station will be operating, daily hours of operation, for a minimum of 5 days per week, a site plan of the parking lot, drawn to scale, with the location of existing parking spaces and the welcome station. Each welcome station is permitted one 24 square foot identification sign, mounted on the welcome station, and should be shown in the required photograph.

- d. Review of permit. The Director will approve or deny the application, in part or whole, based on the welcome station's consistency with the standards established for outdoor display of merchandise and compatibility with surrounding uses. The welcome station must be maintained in good condition, consistent with the photograph submitted with the application. Failure to comply with the minimum hours of operation provided, may result in revocation of the temporary use permit.
- e. Emergency Evacuation. Mobile welcome stations must be removed from the county or placed within an approved off-site storage area within 48 hours of the issuance of a hurricane watch for the Town by the National Hurricane Center.

(2) Special Exception

- a. Length of Approval. Temporary Welcome Stations may be approved for longer periods of time by receiving a Special Exception. A special exception approval may include a specific length of time the approval is in effect.
- b. Application Requirements. Applications must comply with Article II, Division 4 of this code, including Sec. 34-203(d) Special Exceptions. The Director may waive Sec. 34-201(b)(1) which requires all properties to be abutting or have a rational continuity. Non-abutting properties must meet the location requirements established in this section. If the request involves multiple parcels, applications must include surrounding property owners list and map for all property owners within 300 feet, including individual condominium owners. (note: Sec. 34-202(a)(6) & (7) requires notification of all owners within 500 feet)
- c. Location. The request may include multiple, non-abutting properties. Welcome stations may be approved on property zoned commercial, in existing commercial parking lots, or in the parking lot of an existing principal use. Where the station is an ancillary use, the required number of parking spaces for the principal use must be maintained.

- d. Standards for Approval. In addition to the considerations for Special Exceptions found in Sec. 34-88, requests must meet the following performance and locational standards:
- (1) Welcome stations must remain at an approved location a minimum of 30 days before moving to a different approved location.
 - (2) Welcome stations must operate a minimum of 5 days per week, 4 hours per day.
 - (3) Each welcome station is permitted one 24 square foot identification sign, mounted on the welcome center.
 - (4) Welcome stations must be able to be removed from the county or placed within an approved off-site storage area within 48 hours of the issuance of a hurricane watch for the Town by the National Hurricane Center.