

AGENDA
CITY OF HOLMES BEACH CITY COMMISSION WORK SESSION
IMMEDIATELY FOLLOWING REGULAR MEETING
PATRICIA A GEYER COMMISSION CHAMBERS
5801 MARINA DR, HOLMES BEACH, FL 34217
TUESDAY, FEBRUARY 12, 2019 – 6:00 P.M.

PLEDGE OF CONDUCT: We may disagree, but we will be respectful of one another. We will direct all comments to the issues. We will avoid personal attacks.

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **QUESTIONS AND COMMENTS FROM THE PUBLIC AND PRESS**

NEW BUSINESS

4. **DRAFT ORDINANCE 19-01 – MORATORIUM – ISSUANCE OF PERMITS & DEVELOPMENT APPLICATIONS – *BUILDING OFFICIAL MCGUINNESS***
"AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF HOLMES BEACH, FLORIDA, ESTABLISHING A NINE-MONTH MORATORIUM ON THE ISSUANCE OF PERMITS AND THE PROCESSING OF DEVELOPMENT APPLICATIONS FOR CUMULATIVE IMPROVEMENTS AND PROJECTS THAT MAY BE AFFECTED BY THE 50% IMPROVEMENT RULE; PROVIDING FOR EXEMPTIONS AND IMPROVEMENTS AND PROJECTS THAT HAVE VESTED RIGHTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE."
5. **DISCUSSION REGARDING REDUCTION OF SIGNAGE IN CITY – *CHIEF TOKAJER AND ENGINEER BURNETT***

UNFINISHED BUSINESS

6. **DRAFT ORDINANCE NO. 19-03 – STANDARDS FOR GOLF CARTS – *Chief Tokajer***
"AN ORDINANCE OF THE CITY OF HOLMES BEACH AMENDING THE CODE OF ORDINANCES OF THE CITY OF HOLMES BEACH, FLORIDA TO AMEND SECTION 62-38 OF CHAPTER 62 TO DELETE SUBSECTION 62-38 (2) AND RENUMBER SUBSECTION 62-38(3) TO 62-38(2); TO AMEND 62-39 OF CHAPTER 62 TO ADD ADDITIONAL STANDARDS FOR GOLF CARTS OPERATED ON CITY STREETS; DELETING EXISTING SECTION 62-40 AND; ADDING A NEW SECTION 62-43 TO DEFINE AREAS WHERE OPERATION OF GOLF CARTS AND LOW SPEED VEHICLES IS PROHIBITED; ADDING A NEW SECTION 62-44 PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE."

ANNOUNCEMENTS

7.
 - THURSDAY – FEBRUARY 14 – 10:00 A.M. – CHARTER REVIEW COMMISSION MEETING**
 - MONDAY - FEBRUARY 18 – PRESIDENT'S DAY – CITY OFFICES CLOSED**
 - TUESDAY – FEBRUARY 19 – 2:00 P.M. – BIEO – BRADENTON BEACH**
 - TUESDAY – FEBRUARY 19 – 6:00 P.M. – CITY COMMISSION SPECIAL WORK SESSION REGARDING THE RENTAL AND USE OF MOBILITY VEHICLES**
 - WEDNESDAY – FEBRUARY 20 – 5:00 P.M. – PLANNING COMMISSION MEETING**
 - THURSDAY – FEBRUARY 21 – 10:00 A.M. – CHARTER REVIEW COMMISSION MEETING**
 - TUESDAY – FEBRUARY 26 – 6:00 P.M. – CITY COMMISSION REGULAR MEETING WITH WORK SESSION TO FOLLOW**
 - THURSDAY – FEBRUARY 28 – 10:00 A.M. – CHARTER REVIEW COMMISSION MEETING**
8. **QUESTIONS AND COMMENTS FROM MAYOR AND CITY COMMISSION**

9. QUESTIONS AND COMMENTS FROM CITY ATTORNEY

10. QUESTIONS AND COMMENTS FROM STAFF

11. QUESTIONS AND COMMENTS FROM THE PUBLIC AND PRESS

ADJOURNMENT

Should any interested party seek to appeal any decision made by this City Commission with respect to any matter considered at this meeting, they will need to insure that a verbatim record of the proceedings is made which record includes the testimony and evidence upon which the appeal is to be based. In accordance with the Americans with Disabilities act and 286.26 Florida Statutes, persons with disabilities needing special accommodations to participate in this proceeding should contact the office of the City Clerk no later than 3 days prior to the meeting at telephone (941) 708-5800 for assistance; if hearing impaired, telephone the City Clerk's Office for assistance.

**CITY OF HOLMES BEACH
ORDINANCE NO. 19 - 01**

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF HOLMES BEACH, FLORIDA, ESTABLISHING A NINE-MONTH MORATORIUM ON THE ISSUANCE OF PERMITS AND THE PROCESSING OF DEVELOPMENT APPLICATIONS FOR CUMULATIVE IMPROVEMENTS AND PROJECTS THAT MAY BE AFFECTED BY THE 50% IMPROVEMENT RULE; PROVIDING FOR EXEMPTIONS AND IMPROVEMENTS AND PROJECTS THAT HAVE VESTED RIGHTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Holmes Beach participates in the National Flood Insurance Program (NFIP) which provides a program of flood insurance for property owners through the Federal Emergency Management Agency (FEMA); and

WHEREAS, the NFIP encourages sound land use planning decisions by local government officials to minimize the exposure to flood losses and destruction; and

WHEREAS, the NFIP is designed to provide an alternative to private disaster assistance which rarely comes close to covering the cost to repair and clean up after a natural disaster; and

WHEREAS, the NFIP has three main elements: (a) the establishment and updating of flood maps which identify land areas which are located in the Special Flood Hazard Area (all of the City of Holmes Beach is located within the Special Flood Hazard Area); (b) the establishment of floodplain management criteria which set the minimum requirements for communities to adopt and apply to development within mapped flood hazard areas; and (c) the provision of flood insurance that will provide financial protection to property owners to cover flood related damage to buildings and contents; and

WHEREAS, FEMA, through the NFIP, provides incentives in the form of deep discounts to property owners in their flood insurance premiums if their community has implemented floodplain management criteria that are designed to reduce flood losses; and

WHEREAS, the NFIP includes a Community Rating System (CRS) which grades a community and establishes a flood insurance discount for property owners for communities that achieve a higher grade in the CRS; and

WHEREAS, the City of Holmes Beach is currently a CRS Class 6 which earns a 20% discount on all flood insurance premiums, which saves over \$1,000,000 for Holmes Beach property owners; and

WHEREAS, the City Commission of the City of Holmes Beach has determined that it is in the best interests of the residents and businesses of Holmes Beach to improve the City's CRS classification and increase the discount to property owners for their flood insurance; and

WHEREAS, a higher CRS classification may be achieved by implementing more restrictive criteria for development; and

WHEREAS, the City has adopted a floodplain management ordinance which is based upon and substantially compliant with the State of Florida's model floodplain ordinance, and all new structures and all substantially improved or substantially damaged structures that are repaired must be elevated at or above the most recent flood hazard map elevations; and

WHEREAS, the City's ordinance defines "substantial improvement" and "substantial damage" as the cost of which would equal or exceed 50% of the market value of the structure being improved or repaired or in need of improvement or repair, with specific exemptions for health and safety code violations and historic structures; and

WHEREAS, the City's ordinance does not require any computation of historical improvement values, and there is no provision for cumulative (retroactive over a period of time) improvement valuation for individual properties, which means that the 50% valuation is calculated on a permit to permit basis, and as soon as the scope of work on one permit is completed and approved, a property owner may apply for another permit and have the 50% valuation calculation reset for the next project; and

WHEREAS, some owners have used the phasing of improvements or projects to circumvent the 50% rule, and FEMA has directed that such phasing of projects should be prohibited; and

WHEREAS, the City has been encouraged to act quickly and to proactively adopt a higher standard for improvements to be calculated over a specific period of time to prevent the phasing of improvements and projects in a manner that allows for the use of the 50% rule in a serial manner inconsistent with the intent of the NFIP; and

WHEREAS, the City's adoption of new regulations will promote the City's maintenance and improvement of its CRS rating; and

WHEREAS, the City Commission has determined that additional time is needed to study the impact of an ordinance clarifying the calculation of the 50% rule and that the City Commission is considering setting the period of time for calculating the rule for up to three years for improvements and up to one year for the repair of damages; and

WHEREAS, the City Commission has determined that a nine-month moratorium on permit to permit development is needed while the City Commission studies the impact of a change in the City's ordinance for cumulative improvements and projects; and

WHEREAS, the City Commission intends to offer an opportunity for all interested parties to be heard during the moratorium and will review all relevant evidence in determining whether an amendment of the ordinance is needed; and

WHEREAS, Article VIII, Section 2, of the Florida Constitution and Section 166.021(1), Florida Statutes, provide that a municipality may exercise any power for municipal purposes, except when expressly prohibited by law.

NOW, THEREFORE, be it ordained by the City Commission of the City of Holmes Beach, Florida, as follows:

SECTION 1. Findings of Fact: The above "whereas" clauses are adopted herein as findings of fact.

SECTION 2. Moratorium Imposed: The City of Holmes Beach hereby establishes a nine-month moratorium on the issuance of permits and the processing of development applications for permit to permit development beginning on January 9, 2019.

SECTION 3. Exemptions and Vested Rights: The following categories of permits and development orders shall be exempt from this moratorium provided that the City staff has confirmed a projects eligibility for an exemption:

- (a) Any infrastructure or public facility which is required to be provided by any government entity and any development on City owned property.
- (b) Development permits or applications that have been approved by the City Commission or by an authorized City staff member prior to the effective date of this Ordinance and related companion applications.

Nothing in this Ordinance shall be construed or applied to abrogate the vested right of a property owner to complete development where the property owner demonstrates that official development approval has been obtained prior to January 8, 2019.

SECTION 4. Severability. If any section, subsection, paragraph, sentence, clause, or phrase in this Ordinance is held invalid by a court of competent jurisdiction, then such invalidity shall not affect the remaining portions hereof.

SECTION 5. Effective Date. The effective date of this Ordinance shall be January 8, 2019, the day that the City Commission first took official action to adopt this moratorium in accordance with *Smith v. City of Clearwater*, 383 So.2d 681 (Florida Second DCA 1980).

PASSED AND ADOPTED, by the City Commission of the City of Holmes Beach, Florida, in regular session assembled, this _____ day of _____, 2019.

First Reading: _____

Publication Date: _____

Second Reading and Public Hearing Date: _____

Jim Kihm

Carol Soustek

Patrick Morton

Rick Hurst

Kim Rash

APPROVED BY ME THIS _____ DAY OF _____, 2019.

**Judy Titsworth,
Mayor**

ATTEST: _____
**Stacey Johnston, MMC
City Clerk**

**CITY OF HOLMES BEACH
ORDINANCE NO. 19-03**

AN ORDINANCE OF THE CITY OF HOLMES BEACH AMENDING THE CODE OF ORDINANCES OF THE CITY OF HOLMES BEACH, FLORIDA TO AMEND SECTION 62-38 OF CHAPTER 62 TO DELETE SUBSECTION 62-38 (2) AND RENUMBER SUBSECTION 62-38(3) TO 62-38(2); TO AMEND 62-39 OF CHAPTER 62 TO ADD ADDITIONAL STANDARDS FOR GOLF CARTS OPERATED ON CITY STREETS; DELETING EXISTING SECTION 62-40 AND; ADDING A NEW SECTION 62-43 TO DEFINE AREAS WHERE OPERATION OF GOLF CARTS AND LOW SPEED VEHICLES IS PROHIBITED; ADDING A NEW SECTION 62-44 PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Holmes Beach, Florida has police powers to regulate the use of City streets; and

WHEREAS, the City of Holmes Beach, Florida desires to further restrict the City streets where golf carts are allowed to be used; and

WHEREAS, the City of Holmes Beach, Florida has determined that it is in the best interest of its citizens to restrict the use of low speed vehicles as defined in state statute from certain streets; and

WHEREAS, the City's traffic engineer has determined that the adoption of these regulations will increase the safety of the residents and visitors by decreasing traffic conflicts on the City's heavily traveled roads.

NOW, THEREFORE, be it ordained by the City Commission of the City of Holmes Beach, Florida as follows:

Section 1. Section 62-38. Operation of golf carts on city streets is amended in its entirety to read as follows:

"Section 62-38. The operation of a golf cart upon the streets of the city is permitted on all streets within the city except as provided herein:

- (1) Golf carts may not be used on any street which has a designated speed limit of 35 miles per hour or higher.
- (2) Golf carts may cross Gulf Drive, Palm Drive and Marina Drive from approved streets."

Section 2. Section 62-39 is amended to add the following standards:

"(3) All golf carts operated on any streets in the City of Homes Beach must have seat belts for all riders.

(4) The owners or operators of any golf carts operated on any streets in Holmes Beach must use age appropriate child restraint devices and safety seats as required in Chapter 316, Florida Statutes.

(5) Failure to have and use seatbelts and/or child restraint devices and safety seats for children shall be a violation of this ordinance and will be subject to a fine as set forth below.

Section 3. A new Section 62-43 is added to read as follows:

"Section 62-43. Areas where operation of golf carts and low speed vehicles is prohibited.

Golf carts and low speed vehicles are prohibited from operating on City sidewalks, multiuse trails, bicycle paths, boardwalks, beach accesses and other city owned property."

Section 4. A new Section 62-44 is added to read as follows:

"Section 62-44. Penalties.

Any violation of any provision of this ordinance is subject to a fine of \$75.00 per violation. Each seat belt, child restraint device or safety seat violation is deemed to be a separate violation subject to the fine. The amount of the fine may be amended by resolution of the commission."

Section 5. Conflicts. Any section in the City's Code of Ordinances that conflicts with these provisions are hereby superseded.

Section 6. Severability. If any word, portion, clause or other part of this ordinance is deemed unconstitutional or unenforceable for any reason, such portion shall be severed from this ordinance and the remaining portions thereof shall be unaffected thereby.

Section 7. Effective Date. This ordinance shall be effective upon adoption by the City Commission and approval by the Mayor in accordance with the Charter of the City of Holmes Beach.

(Signatures and attestation on following page)

**PASSED AND ADOPTED, by the City Commission of the City of Holmes Beach,
Florida, in regular session assembled, this _____ day of _____, 2019.**

First Reading: _____

Publication Date: _____

Second Reading and Public Hearing Date: _____

Jim Kihm

Carol Soustek

Kim Rash

Rick Hurst

Patrick Morton

APPROVED BY ME THIS _____ DAY OF _____, 2019

Judy Titsworth, Mayor

**ATTEST: _____
Stacey Johnston, MMC, City Clerk**