

ORDINANCE NO. 2942

AN ORDINANCE
To Be Entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FORT MYERS, FLORIDA, CONSENTING TO THE HERITAGE PALMS COMMUNITY DEVELOPMENT DISTRICT REQUEST TO EXERCISE SPECIAL POWERS RELATING TO PARKS, RECREATION, SECURITY, AND EDUCATION; PROVIDING FOR CONFLICT AND SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS: The Heritage Palms Community Development District was established by Ordinance No. 2873 which became effective on September 21, 1998 and expanded in land area by Ordinance No. 2914 adopted on October 18, 1999; and

WHEREAS: The Board of Supervisors of the Heritage Palms Community Development District ("District") has requested the consent of the City of Fort Myers, to exercise certain additional special powers pursuant to Section 90.012(2), Florida Statutes; and

WHEREAS: The Board of Supervisors of the District has requested that City of Fort Myers consent to the exercise of special powers relating to parks, recreation, security, and education; and

WHEREAS: The City of Fort Myers has reviewed the request by the District Board of Supervisor.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FORT MYERS, that:

SECTION 1: CONSENT TO EXERCISE ADDITIONAL POWERS.

1. The Heritage Palms Community Development District is governed by the provisions of Chapter 190, Florida Statutes.

2. Additionally, the City Council of the City of Fort Myers, hereby consents to the Board of Supervisors of the Heritage Palms Community Development District exercising the following special powers in accordance with Section 190.012(2), Florida Statutes, to plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate and maintain additional systems and facilities for:

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(a) Parks and facilities for indoor and outdoor recreational, cultural and educational uses.

(b) Security, including, but not limited to, guardhouses, fences and gates, electronic intrusion detection systems, and patrol cars, when authorized by proper governmental agencies; except that the District may not exercise any police power, but may contract with the appropriate local general purpose government agencies for an increased level of such services within the District boundaries. The District expressly does not have the power nor the authority to effectuate arrests.

3. Consent to exercise the above powers by the City of Fort Myers in no way implies that City of Fort Myers has any obligation or responsibility to ensure that these special powers are exercised by the District nor any liability in regards to the District's exercise of these special powers. Further, recognizing that community development districts may not legally exercise any police powers as proscribed by Section 190.012(2)(d), Florida Statutes, the exercise of security powers by the District shall in no manner impair or infringe upon the lawful exercise of police powers by others including the Police Department.

4. All notice requirements of law were met and complete notice was timely given.

SECTION 2: CONFLICT AND SEVERABILITY. In the event this Ordinance conflicts with any other ordinance of the City of Fort Myers or other applicable law, the more restrictive shall apply as long as not inconsistent with or prohibited by Florida Statutes Section 190. If any phase or portion of this ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion.

SECTION 3: EFFECTIVE DATE. This ordinance shall become effective immediately upon adoption.

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PASSED IN PUBLIC SESSION of the City Council of the City of Fort Myers, Florida, this 22nd day of February, A.D., 2000.

AYE Dr. W. Robert Anderson
Dr. W. Robert Anderson

AYE Veronica S. Shoemaker
Veronica S. Shoemaker

AYE Ann M. Knight
Ann M. Knight, Ed.D.

AYE M.A.
Michael Flanders

AYE Brenda S. Brewer
Brenda S. Brewer
Council Members

APPROVED this 22nd day of February A.D., 2000, at 8:21 o'clock p.m.

Bruce T. Grady
Bruce T. Grady, Mayor

FILED in the Office of the City Clerk this 22nd day of February, A.D., 2000.

Marlene DeJesus
Marlene DeJesus, Deputy City Clerk