

ORDINANCE No. 98- 10

AN ORDINANCE ESTABLISHING AN EMERGENCY AMENDING THE TOWN OF FORT MYERS BEACH CODE OF ORDINANCES CHAPTER 62, TOWN OF FORT MYERS BEACH OPEN ALCOHOLIC BEVERAGE CONTAINER ORDINANCE; SECTION SIX: PENALTY; PROVIDING AUTHORITY; ESTABLISHING AN EMERGENCY; AMENDMENT TO CHAPTER 62, SECTION SIX: PENALTY; SEVERABILITY AND EFFECTIVE DATE.

WHEREAS, the Town of Fort Myers Beach, Florida was established under the Laws of Florida, Chapter 95-494 which provides in Section 10.02 Adoption of ordinances, sub-section (b) To meet a public emergency affecting life, health, property, or the public peace, the council, by a two-thirds vote of those present as required by general law, may adopt an emergency ordinance without complying with the requirements of notice expressed in the foregoing paragraph. An emergency ordinance may not levy taxes; grant, renew, or extend a franchise; set service or user charges for any municipal services; or authorize the borrowing of money. An emergency ordinance shall become effective upon adoption and automatically stand repealed as of the 61st day following the date on which it was adopted. This shall not prevent reenactment of such an ordinance under regular procedures.

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, Chapter 166, Florida Statutes, and other applicable provisions of law.

SECTION 2. Establishing An Emergency. It is the finding of the Town Council that to meet a public emergency affecting life, health, property, or the public peace, an emergency exists justifying the need to adopt this ordinance.

SECTION 3. Amendment To CHAPTER 62. CHAPTER 62. SECTION SIX: Penalty, of the "Town of Fort Myers Beach Open Alcoholic Beverage Container Ordinance" is hereby amended to read as follows:

62. SECTION SIX: Penalty

Any person convicted of violation of SECTION ~~FOUR THREE~~, Subsection A. or B. of this Ordinance shall be punished by a fine not to exceed Five Hundred Dollars (\$500.00) or by imprisonment in the County Jail for a period not to exceed sixty (60) days, or both, such fine and imprisonment for each such offense.

Any person who violates any of the provisions of SECTION ~~FOUR THREE~~, Subsection C. of this ordinance shall be guilty of a non-criminal moving traffic violation as provided by Florida Statute Section 316.193.

SECTION 4. 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 5. 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 Murphy and seconded by Council Member Mulholland and, upon being put to a vote, the result was as follows:

Anita T. Cereceda	<u>aye</u>
Daniel Hughes	<u>aye</u>
John Mulholland	<u>aye</u>
Garr Reynolds	<u>aye</u>
Ray Murphy	<u>aye</u>

DULY PASSED AND ENACTED this 5th day of October, 1998.

ATTEST:

TOWN OF FORT MYERS BEACH

By: Marsha Segal-George
Marsha Segal-George, Town Clerk

By: Anita T. Cereceda
Anita T. Cereceda, Mayor

Approved as to form by:
Richard V.S. Roosa
Richard V.S. Roosa, Town Attorney