

TOWN OF FORT MYERS BEACH  
ORDINANCE NO. 96 -17

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH  
FLORIDA, TO BE KNOWN AS THE TOWN OF FORT MYERS  
BEACH NIGHT SLEEPING ON BEACH ORDINANCE  
PROVIDING AUTHORITY; TITLE AND CITATION;  
APPLICABILITY; MEANS OF ENFORCEMENT; SLEEPING  
ON BEACHES IN THE NIGHTTIME INTENT; SLEEPING  
ON BEACHES IN THE NIGHTTIME PROHIBITED;  
PENALTY; SEVERABILITY; REPEALING CLAUSE AND  
EFFECTIVE DATE

IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH, FLORIDA as follows:

SECTION ONE: 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 TWO: Title and Citation

This ordinance shall be known and cited as the "Town of Fort Myers Beach Night Sleeping on Beach Ordinance"

SECTION THREE: Applicability.

This ordinance shall apply to all public beaches located in the Town of Fort Myers Beach. For purposes of this ordinance, public beaches is defined to mean any beach within the territorial boundaries of the Town of Fort Myers Beach which (1) is below the mean high water lines; or (2) is owned by Lee County or the Town of Fort Myers Beach; or (3) has arisen upon it a right of customary use by the public; or (4) has arisen upon it a public easement, prescriptive or otherwise; or (5) is the foreshore of tidal navigable waters, that is the land between the high and low water marks, and is owned by the State of Florida.

SECTION FOUR: Means of Enforcement.

The provisions of this Ordinance shall be enforced by members of all duly authorized law enforcement agencies within the Town.

SECTION FIVE: Sleeping on Beaches in the Nighttime Intent.

It is the intent of the Town Council in the adoption of this Ordinance to preserve and protect the beauty of the public beaches since such beaches are invaluable natural assets which are held in trust by the town for recreational use by residents and visitors alike. The Town Council has made the following findings in reaching

the determination that sleeping on the beaches during nighttime hours must be prohibited; that the beaches are one of its most valuable natural assets; that the beaches are intended to be used solely for recreational purposes and are not intended to be used for sleeping during nighttime hours; that the town's economic well-being is substantially dependent upon tourism which is, in turn, dependent upon maintaining attractive and inviting beaches; that permitting persons to sleep upon the beaches during nighttime hours will negatively affect the appearance of the beaches, will have a deleterious effect upon the town's tourism industry and will require the unwarranted expenditure of funds in order to provide a reasonably safe and healthy sleeping environment for those who may choose to sleep upon the beaches during nighttime hours; that persons asleep on beaches during nighttime hours are exposed to the risk of harm from others or from the elements; and that prohibiting persons from sleeping upon the beaches during nighttime hours will promote the public health, safety and welfare.

SECTION SIX: Sleeping on Beaches in the Nighttime Prohibited.

It shall be unlawful for any person to sleep on any public beach within the Town of Fort Myers Beach between the hours of 10:00 p.m. and 6:00 a.m. of the following day.

SECTION SEVEN: Penalty.

Violation of the provisions of this Ordinance, or failure to comply with any of the requirements, shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any provisions shall upon conviction thereof be fined or imprisoned, or both, as provided by law, and in addition shall pay all costs and expenses involved in the case.

SECTION EIGHT: 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 NINE: Repealing Clause

All ordinances or parts thereof in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

SECTION TEN: Effective Date

This ordinance shall become effective September 30, 1996.

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

Anita T. Cereceda	<u>aye</u>
Ted FitzSimons	<u>aye</u>
William (Rusty) Isler	<u>aye</u>
Garr Reynolds	<u>aye</u>
Ray Murphy	<u>aye</u>

DULY PASSED AND ENACTED this 19th day of August, 1996.

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