

ORDINANCE 05-24

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH AMENDING THE LAND DEVELOPMENT CODE, PROVIDING AUTHORITY; EMERGENCY AMENDMENT TO CHAPTER FOURTEEN, ENVIRONMENTAL AND NATURAL RESOURCES, ARTICLE ONE, BEACH AND DUNE MANAGEMENT, SECTION 14-5 (d) BEACH FURNITURE AND EQUIPMENT; AMENDING REGULATIONS TO PROVIDE FOR PLACEMENT OF BEACH FURNITURE AND EQUIPMENT FOR RENT BY COMMERCIAL VENDORS, PROVIDING FOR AUTOMATIC REPEAL, SETTING FORTH PUBLIC EMERGENCY, SEVERABILITY; EFFECT OF ORDINANCE AND 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, Chapter 166, Florida Statutes, and other applicable provisions of law.

SECTION 2. Regulations regarding Beach Furniture and Equipment as set forth in Section 14-5(d) of the Land Development Code are hereby amended to read as set forth below. Entirely new language is indicated with underlining.

SECTION 14-5. Beach Furniture and equipment. (d). All beach furniture and equipment (such as chairs, umbrellas, cabanas, and rental podium, but excluding water-dependent equipment) shall be set landward of the mean high water line and at least 30 feet from a sea turtle nest or dune vegetation, except that any such beach furniture and/or equipment offered for rent by a beach equipment vendor shall be set at a minimum of 25 feet landward of the wet sand and at least 30 feet from a sea turtle nest or dune vegetation . This amendment regarding beach equipment vendors shall automatically stand repealed as of the sixty-first (61<sup>st</sup>) day following the date of its adoption.

SECTION 3. Public Emergency. This Ordinance amending the Land Development Code is being adopted pursuant to Subsection (b) of Section 10.02 Adoption of Ordinances, Article X, Ordinances and Resolutions, of the Charter of the Town of Fort Myers Beach. A public emergency, affecting life, health, property or the public peace, is hereby declared to exist, to wit: Beach vending operations' placement of multiple rows of beach furniture in the "wet sand" area of the beach, severely hinders emergency response vehicle's ability to travel to the scene of a public

emergency. As a result of the existence of such public emergency, the notice requirements otherwise applicable to enactment of Ordinances by the Town are waived as to the enactment of this Ordinance.

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. Effect of Ordinance. The provisions of this Ordinance shall be deemed cumulative and supplemental and shall have no legal effect upon the ordinance establishing the Land Development Code of the Town of Fort Myers Beach except as expressly provided.

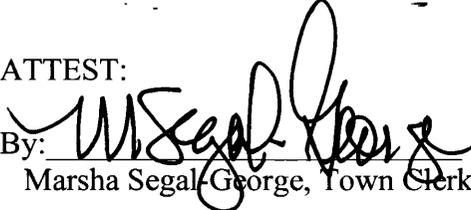
SECTION 6. Effective Date. This ordinance shall become effective immediately upon its adoption.

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

Howard Rynearson	<u>Aye</u>
Don Massucco	<u>Aye</u>
Ken Katcko	<u>Aye</u>
W. H. "Bill" Van Duzer	<u>Aye</u>
Garr Reynolds	<u>Aye</u>

DULY PASSED AND ENACTED this 27<sup>th</sup> day of June, 2005.

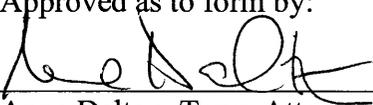
ATTEST:

By:   
Marsha Segal-George, Town Clerk

TOWN OF FORT MYERS BEACH

By:   
W. H. "Bill" Van Duzer, Mayor

Approved as to form by:

  
Anne Dalton, Town Attorney