

ORDINANCE No. 99- 4

AN ORDINANCE AMENDING THE TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE CHAPTER 28, TOWN OF FORT MYERS BEACH PARASAILING ORDINANCE; SECTION 28-53 CONDITIONS OF PAL USE PROVIDING AUTHORITY; AMENDMENT TO CHAPTER 28 SECTION 28-53 CONDITIONS OF PAL USE; 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. Amendment to Chapter 28 Town of Fort Myers Beach Parasailing Ordinance of the Town of Fort Myers Beach Land Development Code; section 28-53 CONDITIONS OF PAL USE to read as follows:

28-53 CONDITIONS OF PAL USE

A. Businesses holding a valid PAL shall be situated together with their vessels upon a site authorized by the Land Development Code and this Ordinance to have such business and shall not:

1. be located within 500 feet of any other business offering personal watercraft for rent or lease or parasailing activities;

2. be located on any beach north of an imaginary line extending from the Sanibel Lighthouse and Bowditch Point on Estero Island; or east of a line formed by Big Carlos Pass Bridge.

B. A business shall have and maintain a telephone and an operable marine radio at its land based operations office.

C. A business must have and maintain comprehensive third party liability insurance in accordance with Section Eleven.

D. Each parasailing vessel must be registered in the name of the business and have a Florida vessel registration number affixed thereon.

E. Fuel tanks may not be stored on the beach but may be stored at the business location provided all applicable federal, state and local fire, safety, and environmental regulations are met.

F. No billboards or free standing signs advertising the business are permitted on the beach.

G. Parasail operations must have a primary location at a site in conformance with this Ordinance or at a business located in a zoning district which specifically permits Transportation Services - Group I - Water-Oriented Uses. Parasail operators may pick up and return customers at other sites provided that the parasail operator has obtained written permission on a form provided by the Town from the landowner where a PWVL has been issued. Written permission shall be kept on file at the PAL's primary location. In no event shall a parasail operator or his agents or employees solicit at the beach where they are picking up and returning customers.

H. Parasail operators will pick up and drop off customers at the beach location pursuant to G, above. This process will be accomplished through buoy lanes within the 500 foot zone consisting of six (6) buoys, with a minimum width of fifteen (15) feet and a maximum of seventy five (75) feet. In a congested area, a parasail captain may avoid hazard by approaching to the right or left of the buoy lane.

I. Operators must be at least 1000 feet from shore when they inflate the chute, or deflate the chute and while flying.

J. Operators must limit the length of the line to 1,200 feet and may not fly the chute over or within 500 feet of pier or within 1000 feet of the beach. Further, all parasail and all operations must cease at sunset.

SECTION 3. 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 4. Effect of Ordinance. The provisions of this Ordinance shall be deemed cumulative and supplemental and shall have no legal effect except as expressly provided.

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 Hughes and seconded by Council Member Reynolds 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 19th day of April, 1999.

ATTEST:

TOWN OF FORT MYERS BEACH

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

By: Raymond P. Murphy
Raymond P. Murphy, Mayor

Approved as to form by:

Richard V.S. Roosa
Richard V.S. Roosa, Town Attorney