

ORDINANCE No. 99-15

AN ORDINANCE AMENDING THE TOWN OF FORT MYERS BEACH CODE OF ORDINANCES CHAPTER 62, TOWN OF FORT MYERS BEACH OPEN ALCOHOLIC BEVERAGE CONTAINER ORDINANCE; PROVIDING AUTHORITY; AMENDMENT TO CHAPTER 62 SECTION FIVE: EXEMPTIONS; 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 62 Section Five: Exemptions to Read as follows:

62. SECTION FOUR: Consumption or Possession of Alcoholic Beverages on a Semi-public Parking Lot, Public Way Parking Lot, or Beach

It shall be unlawful and punishable as provided herein to:

- A. Drink or consume any alcoholic beverage on a semi-public parking lot, or a public street, sidewalk, parkway, beach, or parking lot located in the Town of Fort Myers Beach.
- B. Transport, carry, or possess any alcoholic beverage, except in the original package and with the seal unbroken, on a semi-public parking lot, or a public street, sidewalk, parkway, beach, or parking lot located in the Town of Fort Myers Beach.
- C. Possess an open container of an alcoholic beverage while operating a vehicle or while a passenger in or on a vehicle being operated.

62. SECTION FIVE: Exemptions

This ordinance shall not apply to:

- A. Any person engaged in picking up empty beverage containers for the purpose of collecting the deposit or value of the bottle or can itself, nor to any person taking part in a litter control campaign;
- B. The transportation of any open container of alcoholic beverage by any licensed distributor or licensed vendor of alcoholic beverages provided that such alcoholic beverage is being transported solely for commercial purposes;
- C. Any wine in the possession of a minister, pastor, priest or rabbi which is to be used solely during religious services;

D. The transportation of any open container of alcoholic beverage in any motor vehicle provided that such container is in a compartment of the vehicle such as a locked glove compartment, trunk, container or other non-passenger area of the motor vehicle;

E. Any carrier which has a valid license to sell alcoholic beverages issued by the State of Florida.

F. Any person, while in a designated area, attending a Town sponsored event.

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 Cereceda and seconded by Council Member Hughes 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 6th day of December, 1999.

ATTEST:

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

Approved as to form by:

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

TOWN OF FORT MYERS BEACH

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