

ORDINANCE 06-10

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH PROVIDING FOR CURFEW FOR JUVENILES DURING CERTAIN HOURS OF THE EVENING AND EXCEPTIONS TO CURFEW; PROVIDING FOR GEOGRAPHIC APPLICATION; PROVIDING FOR ENFORCEMENT; PROVIDING FOR PENALTY FOR VIOLATION; PROVIDING AUTHORITY; SEVERABILITY; CODIFICATION, INCLUSION IN CODE AND SCRIVENER'S ERRORS, AND EFFECTIVE DATE

IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

SECTION 1. AUTHORITY. The Ordinance is enacted pursuant to the provisions of Chapter 166 and Chapter 877, Laws of Florida, and other applicable provisions of law.

SECTION 2. NAME OF ORDINANCE. This Ordinance shall hereafter be known as the "Town of Fort Myers Beach Juvenile Curfew Ordinance."

SECTION 3. ADOPTION OF STATE LAW PROVISIONS AS TOWN'S JUVENILE CURFEW ORDINANCE. The provisions of Sections 877.20 through 877.24, inclusive, Florida Statutes (2005), are hereby adopted as the Town's juvenile curfew ordinance. Such provisions are attached as Exhibit "A" and hereby incorporated by reference.

SECTION 4. AFFIRMATIVE ACTION OF TOWN COUNCIL Any amendment by the Florida Legislature to Florida Statutes 877.20 through 877.24, inclusive, shall not be deemed incorporated into the Town of Fort Myers Beach Juvenile Curfew Ordinance unless specifically included by subsequent affirmative action by the Town Council in an amendment to this Ordinance.

SECTION 5. GEOGRAPHIC APPLICATION. The provisions of this Ordinance shall apply to all areas within the territorial limits of the Town of Fort Myers Beach, Florida.

SECTION 6. 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 as 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 7. CODIFICATION, INCLUSION IN CODE AND SCRIVENER'S ERRORS. It is the intention of the Town Council that the provisions of this Ordinance will become and be made a part of the Code of Ordinances of the Town of Fort Myers Beach and that sections of this Ordinance may be renumbered or re-lettered and that the word "Ordinance" may be changed to "section", "article" or such other appropriate word or phrase in order to accomplish such intention; and regardless of whether such inclusion

in the code is accomplished, sections of this Ordinance may be renumbered or re-lettered and correction of typographical errors which do not affect the intent may be authorized by the Town Manager, or the Town Manager's designee, without need of public hearing, by filing a corrected or re-codified copy of same with the Town Clerk.

SECTION 8. 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 Meador and seconded by Council Member Shenko and, upon being put to a vote, the result was as follows:

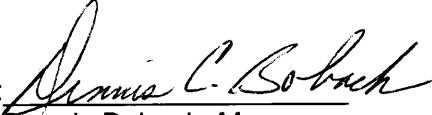
Dennis Boback, Mayor	aye
Don Massucco, Vice Mayor	aye
Garr Reynolds	aye
Charles Meador, Jr.	aye
William Shenko, Jr.	aye

DULY PASSED AND ENACTED this 1st day of May, 2006.

ATTEST:

TOWN OF FORT MYERS BEACH

By: 
Rachel Lambert, Town Clerk

By: 
Dennis Boback, Mayor

Approved as to form by:


Anne Dalton, Town Attorney

EXHIBIT A

1. F.S.877.20. Local juvenile curfew ordinances; legislative intent

It is the intent of the Legislature to protect minors in this state from harm and victimization, to promote the safety and well-being of minors in this state, to reduce the crime and violence committed by minors in this state, and to provide counties and municipalities with the option of adopting a local juvenile curfew ordinance by incorporating by reference the provisions of F.S. 877.20-877.25.

2. F.S. 877.21. Definitions. As used in F.S. 877.20-877.25, the term:

(1) "Emergency" means an unforeseen combination of circumstances which results in a situation that requires immediate attention to care for or prevent serious bodily injury, loss of life, or significant property loss. The term includes, but is not limited to, a fire, a natural disaster, or an automobile accident.

(2) "Establishment" means a privately owned place of business to which the public is invited, including, but not limited to, a place of amusement or a place of entertainment.

(3) "Minor" means any person under 16 years of age.

(4) "Parent" means a person who has legal custody of a minor as a:

- (a) Natural or adoptive parent.
- (b) Legal guardian.
- (c) Person who stands in loco parentis to the minor.
- (d) Person who has legal custody of the minor by order of the court.

(5) "Public place" means a place to which the public has access, including, but not limited to, streets, highways, public parks, and the common areas of schools, hospitals, apartment houses, office buildings, transportation facilities, and shops.

(6) "Remain" means to stay unnecessarily in a particular place.

3. F.S. 877.22. Minors prohibited in public places and establishments during certain hours; penalty; procedure

(1)(a) A minor may not be or remain in a public place or establishment between the hours of 11:00 p.m. and 5:00 a.m. of the following days: Sunday through Thursday, except in the case of a legal holiday.

(b) A minor may not be or remain in a public place or establishment between the hours of 12:01 a.m. and 6:00 a.m. on Saturdays, Sundays, and legal holidays.

(2) A minor who has been suspended or expelled from school may not be or remain in a public place, in an establishment, or within 1,000 feet of a school during the hours of 9:00 a.m. to 2:00 p.m. during any school day.

(3) A minor who violates this section shall receive a written warning for her or his first violation. A minor who violates this section after having received a prior written warning is guilty of a civil infraction and shall pay a fine of \$50 for each violation.

(4) If a minor violates a curfew and is taken into custody, the minor shall be transported immediately to a police station or to a facility operated by a religious, charitable, or civic organization that conducts a curfew program in cooperation with a local law enforcement agency. After recording pertinent information about the minor, the law enforcement agency shall attempt to contact the parent of the minor and, if successful, shall request that the parent take custody of the minor and shall release the minor to the parent. If the law enforcement agency is not able to contact the minor's parent within 2 hours after the minor is taken into custody, or if the parent refuses to take custody of the minor, the law enforcement agency may transport the minor to her or his residence or proceed as authorized under part II of Chapter 39, Florida Statutes.

4. F.S.877.23. Legal duty of parent; penalty

(1) The parent of a minor has a legal duty and responsibility to ensure that the minor does not violate F.S. 877.22(1).

(2) The parent of a minor has a legal duty and responsibility to personally supervise, or arrange for a responsible adult to supervise, the minor so that the minor does not violate F.S. 877.22(2).

(3) The parent of a minor who knowingly permits the minor to violate F.S. 877.22(1) or (2) shall receive a written warning for a first violation. A parent who knowingly permits the minor to violate F.S. 877.22(1) or (2) after having received a prior written warning is guilty of a civil infraction and shall pay a fine of \$50 for each violation.

5. 877.24. Nonapplication of F.S. 877.22

Section 877.22 does not apply to a minor who is:

(1) Accompanied by his or her parent or by another adult authorized by the minor's parent to have custody of the minor.

(2) Involved in an emergency or engaged, with his or her parent's permission, in an emergency errand.

(3) Attending or traveling directly to or from an activity that involves the exercise of rights protected under the First Amendment of the United States Constitution.

(4) Going directly to or returning directly from lawful employment, or who is in a public place or establishment in connection with or as required by a business, trade, profession, or occupation in which the minor is lawfully engaged.

(5) Returning directly home from a school-sponsored function, a religious function, or a function sponsored by a civic organization.

(6) On the property of, or on the sidewalk of, the place where the minor resides, or who is on the property or sidewalk of an adult next-door neighbor with that neighbor's

permission.

(7) Engaged in interstate travel or bona fide intrastate travel with the consent of the minor's parent.

(8) Attending an organized event held at and sponsored by a theme park or entertainment complex as defined in F.S. 509.013(9).