

ORDINANCE No. 97- 8

AN ORDINANCE AMENDING THE TOWN OF FORT MYERS BEACH VESSEL CONTROL AND WATER SAFETY ORDINANCE, PROVIDING AUTHORITY; AMENDMENT TO DEFINITION OF FLOATING VENDOR; AMENDMENT TO AREA OF ENFORCEMENT; 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 SECTION 3. Definitions, of the "Town of Fort Myers Beach Vessel Control and Water Safety Ordinance" is hereby amended to read as follows:

CHAPTER 76. SECTION 3. Definitions

For the purposes of this Ordinance, the following terms, phrases, words and derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and the words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

C. "Floating Vendor" means a vessel represented as a place of business a professional or other commercial enterprise which is used to solicit conduct or canvass for the sale or rental of any merchandise, services, goods or property of any kind or character. This term does not include the following types of vessels:

1. A vessel which in and of itself is rented;
2. Any parasail operation using self contained operational equipment so that launching or landing does not occur on land;
3. A vessel maintained in a permanent location over privately owned or leased submerged bottom lands; or,
4. A vessel used for hire (i.e., charter boat, dive boat, dinner cruise boat, tour boat, water taxi, etc.) which is not used in any parasail operation.

SECTION 3. Amendment to SECTION 4. Area of Enforcement, of the "Town of Fort Myers Beach Vessel Control and Water Safety Ordinance" is hereby amended to read as follows:

CHAPTER 76. SECTION 4. Area of Enforcement

The area of enforcement of the provisions of this Ordinance shall be all public navigable waters, creeks, bayous, canals and channels, whether natural or man-made, located within the Town of Fort Myers Beach, including all public waters within the jurisdiction of the Town in which the tide ebbs and flows. This Ordinance does not apply to the Lee County maintained or marked channels except as posted.

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 except as expressly provided.

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

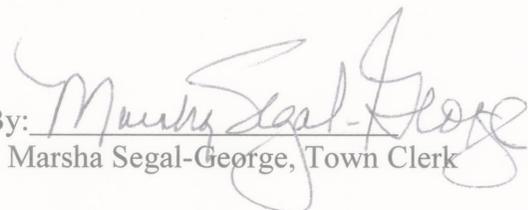
The foregoing ordinance was enacted by the Town Council upon a motion by Council Member Ted FitzSimons and seconded by Council Member William (Rusty) Isler and, upon being put to a vote, the result was as follows:

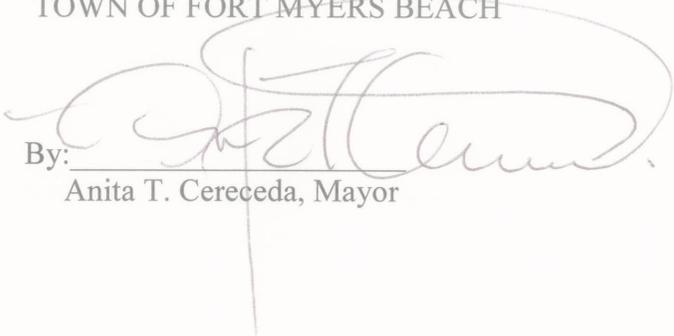
Anita T. Cereceda	Aye
Ted FitzSimons	Aye
William (Rusty) Isler	Aye
Garr Reynolds	Aye
Ray Murphy	Aye

DULY PASSED AND ENACTED this 21st day of July, 1997.

ATTEST:

TOWN OF FORT MYERS BEACH

By: 
Marsha Segal-George, Town Clerk

By: 
Anita T. Cereceda, Mayor

Approved as to form by:


Richard V.S. Roosa, Town Attorney