

ORDINANCE No. 99- 12

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH TO BE KNOWN AS THE TOWN OF FORT MYERS BEACH PANHANDLING ORDINANCE PROVIDING AUTHORITY; NAME; DEFINITION; PROHIBITED ACTS; PENALTIES; SEVERABILITY; CONFLICTS 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. Name. This ordinance shall be known as the Town of Fort Myers Beach Panhandling Ordinance

Section 3. Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Aggressive manner means:

- (1) Approaching, speaking to, or following a person in a manner as would cause a reasonable person to fear bodily harm or the commission of a criminal act upon the person, or upon property in the person's immediate possession.
- (2) Touching another person without that person's consent in the course of asking for alms.
- (3) Continuously asking, begging or soliciting alms from a person after that person has made a negative response.
- (4) Intentionally blocking or interfering with the safe or free passage of a person by any means, including unreasonably causing a person to take evasive action to avoid physical contact.

Ask, beg or solicit alms includes the spoken, written or printed word or such other act conducted with the purpose of obtaining an immediate donation of money or thing of value.

Section 4. Prohibited acts. No person may ask, beg or solicit alms, including money and other things of value:

- (a) in an aggressive manner in any place open to the general public including sidewalks, streets, alleys, driveways, parking lots, parks, plazas, buildings, doorways and entrances to buildings and the grounds enclosing buildings;
- (b) in any public transportation vehicle, or at any bus stop;
- (c) within twenty-five (25) feet of an automatic teller machine (ATM);
- (d) from any operator or occupant of a motor vehicle that is in traffic on a public street;
- (e) from any operator or occupant of a motor vehicle that is in traffic on a public street in exchange of blocking, occupying or reserving a public parking space, or directing the occupant to a public parking space;
- (f) in exchange of cleaning motor vehicle windows while the vehicle is in traffic on a public street;
- (g) in exchange for protecting, watching, washing or cleaning, a motor vehicle while it is parked on a public street; or
- (h) on private property, without permission from the owner or occupant;

Section 5. Permitted activity. Acts authorized as an exercise of a person's constitutional right to picket, protest or speak, and acts authorized by a permit issued by the city shall not constitute unlawful activity under this act.

Section 6. Penalties. The violation of, or failure to comply with, any provision of this ordinance shall constitute an offense against the Town, and shall subject the offender to arrest under Florida Statutes Chapter 901.15 (1) (1997), and, upon conviction, to a fine of not to exceed five hundred dollars or imprisonment for a period of not to exceed sixty (60) days or to both such fine and imprisonment.

Section 7. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 8. Conflicts. Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted Ordinance or Statute, the most restrictive shall apply.

Section 9. Effective Date. This ordinance shall become effective immediately upon its adoption.

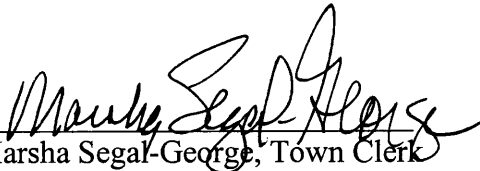
The foregoing ordinance was enacted by the Town Council upon a motion by Council Member Mulholland and seconded by Council Member Hughes and, upon being put to a vote, the result was as follows:

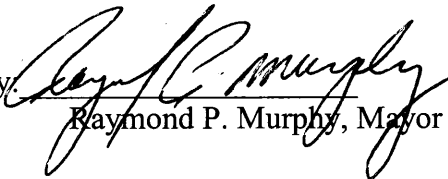
Anita T. Cereceda	<u>aye</u>
Daniel Hughes	<u>aye</u>
John Mulholland	<u>aye</u>
Garr Reynolds	<u>aye</u>
Ray Murphy	<u>aye</u>

DULY PASSED AND ENACTED this 4 day of October , 1999.

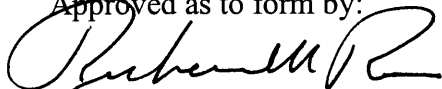
ATTEST:

TOWN OF FORT MYERS BEACH

By: 
Marsha Segal-George, Town Clerk

By: 
Raymond P. Murphy, Mayor

Approved as to form by:


Richard V.S. Roosa, Town Attorney